

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 234

VERSION: AMENDED APRIL 19, 2007

AUTHOR: ENG

SPONSOR: CAMFT

RECOMMENDED POSITION: NONE

SUBJECT: MARRIAGE AND FAMILY THERAPY

Existing Law:

- 1) Defines "Supervisor," as an individual who meets all of the following requirements: (Business and Professions Code [BPC] § 4980.03(g))
 - Has been licensed for at least two years as a marriage and family therapist (MFT), licensed clinical social worker, licensed psychologist, or licensed physician certified in psychiatry by the American Board of Psychiatry and Neurology.
 - Has not provided therapeutic services to the trainee or intern.
 - Has been licensed or certified for at least two years prior to acting as a supervisor.
 - Has a current and valid license that is not under suspension or probation.
 - Complies with supervision requirements established by board regulations.
- 2) Permits MFT Trainees (pre-degree) to gain a maximum of 1,300 hours of experience as follows: (BPC § 4980.43)
 - Not more than 750 hours of counseling and direct supervisor contact
 - Not more than 250 hours of professional enrichment activities excluding personal psychotherapy.
 - Not more than 100 hours of personal psychotherapy, which shall be triple-credited.
- 3) Permits MFT Interns (post-degree) to gain a minimum of 1,700 hours of supervised experience as follows: (BPC § 4980.43)
 - Not more than 1000 hours of direct supervisor contact and professional activities.
 - Not more than 500 hours providing group therapy or group counseling.
 - Not more than 250 hours administering and evaluating psychological tests of counselees, writing clinical reports, writing progress notes, or writing process notes.
 - Not more than 250 hours providing counseling or crisis counseling on the telephone.
 - Not less than 500 total hours diagnosing and treating couples, families, and children.
- 4) Prohibits MFT trainees and interns from having a proprietary interest in their employer's business. (BPC § 4980.43(i))
- 5) Requires education gained outside of California to be accepted toward MFT licensure requirements if it is substantially equivalent. (BPC § 4980.90(b))
- 6) Defines "telemedicine" as the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. (BPC § 2290.5(a))

- This does not include a telephone conversation nor an electronic mail message between a health care practitioner and patient.
- Defines "interactive" as an audio, video, or data communication involving a real time or near real time two-way transfer of medical data and information.

This Bill:

- 1) Requires a supervisor to be licensed by a state agency for a minimum of two years prior to acting as a supervisor of MFT Interns or Trainees. (BPC § 4980.03(g))
- 2) Limits MFT Interns to a maximum of 125 hours of experience providing personal psychotherapy services via telemedicine. (BPC § 4980.43(a)(12))
- 3) Prohibits MFT Trainees and Interns from leasing or renting space, paying for furnishings, equipment or supplies, or in any other way paying for the obligations of their employers. (BPC § 4980.43(i))
- 4) Deletes an obsolete provision permitting supervision of MFT Interns and Trainees by a physician who has completed a residency in psychiatry. (BPC § 4980.45(a))
- 5) Requires education gained while residing outside of California to be accepted toward the MFT licensure requirements if it is substantially equivalent. (BPC § 4980.90(b))
- 6) Makes technical changes in MFT statutes referring to the definitions of "supervisor" and "professional enrichment activities."

Comment:

- 1) **Author's Intent.** The sponsor, the California Association of Marriage and Family Therapists (CAMFT) states that this bill would make a number of clarifying changes and updates to the MFT licensing law.
- 2) **Telemedicine.** This bill would clarify that interns may earn supervised experience providing services via telemedicine, and place a 125-hour cap on counting such hours toward licensure.
- 3) **Employer Obligations.** This bill would newly prohibit trainees and interns from leasing or renting space, paying for furnishings, equipment or supplies, or in any other way paying for the obligations of their employers. This amendment would be in conformity with the intent of current law, which prohibits trainees and interns from having a proprietary interest in their employer's business.
- 4) **Out-of-State Education.** The law is currently unclear regarding persons who **live in** California while attending a school located **outside of** California, such as an online school. Such persons are currently subject to the same educational requirements as those who both live **and** attend school outside of California – meaning the degree must be "substantially equivalent." However, a person who resided in and attended a school located in California must meet more stringent requirements, such as possessing a degree with a specific title named in law, and the inability to make up deficient units. The MFT educational requirements should be the same for everybody who completes their education while residing in California. Out-of-state schools that take students who reside in California should not be exempt from the same standards that apply to California schools.

At its meeting in November 2006, the Board agree to sponsor legislation to effect this change. This proposal has been submitted to the Senate Business and Professions Committee for inclusion in their annual omnibus bill.

5) Support and Opposition.

Support

California Association of Marriage and Family Therapists (sponsor)

Opposition

None on file.

6) History

2007

May 10	In Senate. Read first time. To Com. on RLS. for assignment.
May 10	Read third time, passed, and to Senate. (Ayes 72. Noes 0. Page 1434.)
May 7	Read second time. To Consent Calendar.
May 3	From committee: Do pass. To Consent Calendar. (May 2).
Apr. 23	Re-referred to Com. on APPR.
Apr. 19	Read second time and amended.
Apr. 18	From committee: Amend, and do pass as amended, and re-refer to Com. on APPR. with recommendation: To Consent Calendar. (Ayes 10. Noes 0.) (April 17).
Apr. 10	In committee: Hearing postponed by committee.
Mar. 19	Re-referred to Com. on B. & P.
Mar. 15	From committee chair, with author's amendments: Amend, and re-refer to Com. on B. & P. Read second time and amended.
Mar. 15	Referred to Com. on B. & P.
Jan. 31	From printer. May be heard in committee March 2.
Jan. 30	Read first time. To print.

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AMENDED IN ASSEMBLY APRIL 19, 2007

AMENDED IN ASSEMBLY MARCH 15, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 234

Introduced by Assembly Member Eng

January 30, 2007

An act to amend Sections 4980.03, 4980.43, 4980.45, and 4980.90 of the Business and Professions Code, relating to marriage and family therapy.

LEGISLATIVE COUNSEL'S DIGEST

AB 234, as amended, Eng. Marriage and family therapy.

Existing law makes the Board of Behavioral Sciences responsible for licensing and regulating the practice of marriage and family therapy and makes a violation of these provisions a crime.

Existing law requires an applicant for the marriage and family therapist licensure examination to complete specified experience, with limits on the amount of experience that may be earned in certain areas of emphasis, including professional enrichment activities, and subject to various hourly limitations.

This bill would impose a 125-hour limitation on experience earned providing personal psychotherapy services via telemedicine, as defined, and would modify the definition of professional enrichment activities for these purposes.

Under existing law, trainees and interns may have no proprietary interest in their employer's business.

This bill would additionally provide that trainees and interns may not lease or rent space, pay for furnishings, equipment or supplies, or in

any other way pay for the obligations of their employers. By revising this provision, this bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

Existing law provides that education gained outside of California applies toward the marriage and family therapist licensure requirements.

This bill would instead specify that education gained while residing outside of California applies toward the licensure requirements.

The bill would make other technical and conforming changes.

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.

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

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

- 1 SECTION 1. Section 4980.03 of the Business and Professions
- 2 Code is amended to read:
- 3 4980.03. (a) “Board,” as used in this chapter, means the Board
- 4 of Behavioral Sciences.
- 5 (b) “Intern,” as used in this chapter, means an unlicensed person
- 6 who has earned his or her master’s or doctor’s degree qualifying
- 7 him or her for licensure and is registered with the board.
- 8 (c) “Trainee,” as used in this chapter, means an unlicensed
- 9 person who is currently enrolled in a master’s or doctor’s degree
- 10 program, as specified in Section 4980.40, that is designed to qualify
- 11 him or her for licensure under this chapter, and who has completed
- 12 no less than 12 semester units or 18 quarter units of coursework
- 13 in any qualifying degree program.
- 14 (d) “Applicant,” as used in this chapter, means an unlicensed
- 15 person who has completed a master’s or doctoral degree program,
- 16 as specified in Section 4980.40, and whose application for
- 17 registration as an intern is pending, or an unlicensed person who
- 18 has completed the requirements for licensure as specified in this
- 19 chapter, is no longer registered with the board as an intern, and is
- 20 currently in the examination process.
- 21 (e) “Advertise,” as used in this chapter, includes, but is not
- 22 limited to, the issuance of any card, sign, or device to any person,

1 or the causing, permitting, or allowing of any sign or marking on,
2 or in, any building or structure, or in any newspaper or magazine
3 or in any directory, or any printed matter whatsoever, with or
4 without any limiting qualification. It also includes business
5 solicitations communicated by radio or television broadcasting.
6 Signs within church buildings or notices in church bulletins mailed
7 to a congregation shall not be construed as advertising within the
8 meaning of this chapter.

9 (f) "Experience," as used in this chapter, means experience in
10 interpersonal relationships, psychotherapy, marriage and family
11 therapy, and professional enrichment activities that satisfies the
12 requirement for licensure as a marriage and family therapist
13 pursuant to Section 4980.40.

14 (g) "Supervisor," as used in this chapter, means an individual
15 who meets all of the following requirements:

16 (1) Has been licensed ~~or certified~~ by a state regulatory agency
17 for at least two years as a marriage and family therapist, licensed
18 clinical social worker, licensed psychologist, or licensed physician
19 certified in psychiatry by the American Board of Psychiatry and
20 Neurology.

21 (2) Has not provided therapeutic services to the trainee or intern.

22 (3) Has a current and valid license that is not under suspension
23 or probation.

24 (4) Complies with supervision requirements established by this
25 chapter and by board regulations.

26 SEC. 2. Section 4980.43 of the Business and Professions Code
27 is amended to read:

28 4980.43. (a) Prior to applying for licensure examinations, each
29 applicant shall complete experience that shall comply with the
30 following:

31 (1) A minimum of 3,000 hours completed during a period of at
32 least 104 weeks.

33 (2) Not more than 40 hours in any seven consecutive days.

34 (3) Not less than 1,700 hours of supervised experience
35 completed subsequent to the granting of the qualifying master's
36 or doctor's degree.

37 (4) Not more than 1,300 hours of experience obtained prior to
38 completing a master's or doctor's degree. This experience shall
39 be composed as follows:

- 1 (A) Not more than 750 hours of counseling and direct supervisor
2 contact.
- 3 (B) Not more than 250 hours of professional enrichment
4 activities, excluding personal psychotherapy as described in
5 paragraph (2) of subdivision (l).
- 6 (C) Not more than 100 hours of personal psychotherapy as
7 described in paragraph (2) of subdivision (l). The applicant shall
8 be credited for three hours of experience for each hour of personal
9 psychotherapy.
- 10 (5) No hours of experience may be gained prior to completing
11 either 12 semester units or 18 quarter units of graduate instruction
12 and becoming a trainee except for personal psychotherapy.
- 13 (6) No hours of experience gained more than six years prior to
14 the date the application for licensure was filed, except that up to
15 500 hours of clinical experience gained in the supervised practicum
16 required by subdivision (b) of Section 4980.40 shall be exempt
17 from this six-year requirement.
- 18 (7) Not more than a total of 1,000 hours of experience for direct
19 supervisor contact and professional enrichment activities.
- 20 (8) Not more than 500 hours of experience providing group
21 therapy or group counseling.
- 22 (9) Not more than 250 hours of postdegree experience
23 administering and evaluating psychological tests of counselees,
24 writing clinical reports, writing progress notes, or writing process
25 notes.
- 26 (10) Not more than 250 hours of experience providing
27 counseling or crisis counseling on the telephone.
- 28 (11) Not less than 500 total hours of experience in diagnosing
29 and treating couples, families, and children.
- 30 (12) Not more than 125 hours of experience providing personal
31 psychotherapy services via telemedicine in accordance with Section
32 2290.5.
- 33 (b) All applicants, trainees, and registrants shall be at all times
34 under the supervision of a supervisor who shall be responsible for
35 ensuring that the extent, kind, and quality of counseling performed
36 is consistent with the training and experience of the person being
37 supervised, and who shall be responsible to the board for
38 compliance with all laws, rules, and regulations governing the
39 practice of marriage and family therapy. Supervised experience
40 shall be gained by interns and trainees either as an employee or as

1 a volunteer. The requirements of this chapter regarding gaining
2 hours of experience and supervision are applicable equally to
3 employees and volunteers. Experience shall not be gained by
4 interns or trainees as an independent contractor.

5 (c) Supervision shall include at least one hour of direct
6 supervisor contact in each week for which experience is credited
7 in each work setting, as specified:

8 (1) A trainee shall receive an average of at least one hour of
9 direct supervisor contact for every five hours of client contact in
10 each setting.

11 (2) Each individual supervised after being granted a qualifying
12 degree shall receive an average of at least one hour of direct
13 supervisor contact for every 10 hours of client contact in each
14 setting in which experience is gained.

15 (3) For purposes of this section, “one hour of direct supervisor
16 contact” means one hour of face-to-face contact on an individual
17 basis or two hours of face-to-face contact in a group of not more
18 than eight persons.

19 (4) All experience gained by a trainee shall be monitored by the
20 supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios
21 specified in this subdivision shall be applicable to all hours gained
22 on or after January 1, 1995.

23 (d) (1) A trainee may be credited with supervised experience
24 completed in any setting that meets all of the following:

25 (A) Lawfully and regularly provides mental health counseling
26 or psychotherapy.

27 (B) Provides oversight to ensure that the trainee’s work at the
28 setting meets the experience and supervision requirements set forth
29 in this chapter and is within the scope of practice for the profession
30 as defined in Section 4980.02.

31 (C) Is not a private practice owned by a licensed marriage and
32 family therapist, a licensed psychologist, a licensed clinical social
33 worker, a licensed physician and surgeon, or a professional
34 corporation of any of those licensed professions.

35 (2) Experience may be gained by the trainee solely as part of
36 the position for which the trainee volunteers or is employed.

37 (e) (1) An intern may be credited with supervised experience
38 completed in any setting that meets both of the following:

39 (A) Lawfully and regularly provides mental health counseling
40 or psychotherapy.

1 (B) Provides oversight to ensure that the intern's work at the
2 setting meets the experience and supervision requirements set forth
3 in this chapter and is within the scope of practice for the profession
4 as defined in Section 4980.02.

5 (2) An applicant shall not be employed or volunteer in a private
6 practice, as defined in subparagraph (C) of paragraph (1) of
7 subdivision (d), until registered as an intern.

8 (3) While an intern may be either a paid employee or a
9 volunteer, employers are encouraged to provide fair remuneration
10 to interns.

11 (4) Except for periods of time during a supervisor's vacation or
12 sick leave, an intern who is employed or volunteering in private
13 practice shall be under the direct supervision of a licensee that has
14 satisfied the requirements of subdivision (g) of Section 4980.03.
15 The supervising licensee shall either be employed by and practice
16 at the same site as the intern's employer, or shall be an owner or
17 shareholder of the private practice. Alternative supervision may
18 be arranged during a supervisor's vacation or sick leave if the
19 supervision meets the requirements of this section.

20 (5) Experience may be gained by the intern solely as part of the
21 position for which the intern volunteers or is employed.

22 (f) Except as provided in subdivision (g), all persons shall
23 register with the board as an intern in order to be credited for
24 postdegree hours of supervised experience gained toward licensure.

25 (g) Except when employed in a private practice setting, all
26 postdegree hours of experience shall be credited toward licensure
27 so long as the applicant applies for the intern registration within
28 90 days of the granting of the qualifying master's or doctor's
29 degree and is thereafter granted the intern registration by the board.

30 (h) Trainees, interns, and applicants shall not receive any
31 remuneration from patients or clients, and shall only be paid by
32 their employers.

33 (i) Trainees, interns, and applicants shall only perform services
34 at the place where their employers regularly conduct business,
35 which may include performing services at other locations, so long
36 as the services are performed under the direction and control of
37 their employer and supervisor, and in compliance with the laws
38 and regulations pertaining to supervision. Trainees and interns
39 shall have no proprietary interest in their employers' businesses
40 and shall not lease or rent space, pay for furnishings, equipment

1 or supplies, or in any other way pay for the obligations of their
2 employers.

3 (j) Trainees, interns, or applicants who provide volunteered
4 services or other services, and who receive no more than a total,
5 from all work settings, of five hundred dollars (\$500) per month
6 as reimbursement for expenses actually incurred by those trainees,
7 interns, or applicants for services rendered in any lawful work
8 setting other than a private practice shall be considered an
9 employee and not an independent contractor. The board may audit
10 applicants who receive reimbursement for expenses, and the
11 applicants shall have the burden of demonstrating that the payments
12 received were for reimbursement of expenses actually incurred.

13 (k) Each educational institution preparing applicants for
14 licensure pursuant to this chapter shall consider requiring, and
15 shall encourage, its students to undergo individual, marital or
16 conjoint, family, or group counseling or psychotherapy, as
17 appropriate. Each supervisor shall consider, advise, and encourage
18 his or her interns and trainees regarding the advisability of
19 undertaking individual, marital or conjoint, family, or group
20 counseling or psychotherapy, as appropriate. Insofar as it is deemed
21 appropriate and is desired by the applicant, the educational
22 institution and supervisors are encouraged to assist the applicant
23 in locating that counseling or psychotherapy at a reasonable cost.

24 (l) For purposes of this section, “professional enrichment
25 activities” includes the following:

26 (1) Workshops, seminars, training sessions, or conferences
27 directly related to marriage and family therapy attended by the
28 applicant that are approved by the applicant’s supervisor.

29 (2) Participation by the applicant in personal psychotherapy
30 which includes group, marital or conjoint, family, or individual
31 psychotherapy by an appropriately licensed professional.

32 SEC. 3. Section 4980.45 of the Business and Professions Code
33 is amended to read:

34 4980.45. (a) A licensed professional in private practice who
35 has satisfied the requirements of subdivision (g) of Section 4980.03
36 may supervise or employ, at any one time, no more than two
37 unlicensed marriage and family therapist registered interns in that
38 private practice.

39 (b) A marriage and family therapy corporation may employ, at
40 any one time, no more than two registered interns for each

1 employee or shareholder who has satisfied the requirements of
2 subdivision (g) of Section 4980.03. In no event shall any
3 corporation employ, at any one time, more than 10 registered
4 interns. In no event shall any supervisor supervise, at any one time,
5 more than two registered interns. Persons who supervise interns
6 shall be employed full time by the professional corporation and
7 shall be actively engaged in performing professional services at
8 and for the professional corporation. Employment and supervision
9 within a marriage and family therapy corporation shall be subject
10 to all laws and regulations governing experience and supervision
11 gained in a private practice setting.

12 SEC. 4. Section 4980.90 of the Business and Professions Code
13 is amended to read:

14 4980.90. (a) Experience gained outside of California shall be
15 accepted toward the licensure requirements if it is substantially
16 equivalent to that required by this chapter and if the applicant has
17 gained a minimum of 250 hours of supervised experience in direct
18 counseling within California while registered as an intern with the
19 board.

20 (b) Education gained while residing outside of California shall
21 be accepted toward the licensure requirements if it is substantially
22 equivalent to the education requirements of this chapter, and if the
23 applicant has completed all of the following:

24 (1) A two semester- or three quarter-unit course in California
25 law and professional ethics for marriage, family, and child
26 counselors that shall include areas of study as specified in Section
27 4980.41.

28 (2) A minimum of seven contact hours of training or coursework
29 in child abuse assessment and reporting as specified in Section 28
30 and any regulations promulgated thereunder.

31 (3) A minimum of 10 contact hours of training or coursework
32 in sexuality as specified in Section 25 and any regulations
33 promulgated thereunder.

34 (4) A minimum of 15 contact hours of training or coursework
35 in alcoholism and other chemical substance dependency as
36 specified by regulation.

37 (5) (A) Instruction in spousal or partner abuse assessment,
38 detection, and intervention. This instruction may be taken either
39 in fulfillment of other educational requirements for licensure or
40 in a separate course.

1 (B) On and after January 1, 2004, a minimum of 15 contact
2 hours of coursework or training in spousal or partner abuse
3 assessment, detection, and intervention strategies.

4 (6) On and after January 1, 2003, a minimum of a two semester-
5 or three quarter-unit survey course in psychological testing. This
6 course may be taken either in fulfillment of other requirements for
7 licensure or in a separate course.

8 (7) On and after January 1, 2003, a minimum of a two semester-
9 or three quarter-unit survey course in psychopharmacology. This
10 course may be taken either in fulfillment of other requirements for
11 licensure or in a separate course.

12 (8) With respect to human sexuality, alcoholism and other
13 chemical substance dependency, spousal or partner abuse
14 assessment, detection, and intervention, psychological testing, and
15 psychopharmacology, the board may accept training or coursework
16 acquired out of state.

17 (c) For purposes of this section, the board may, in its discretion,
18 accept education as substantially equivalent if the applicant has
19 been granted a degree in a single integrated program primarily
20 designed to train marriage, family, and child counselors and if the
21 applicant's education meets the requirements of Sections 4980.37
22 and 4980.40. The degree title and number of units in the degree
23 program need not be identical to those required by subdivision (a)
24 of Section 4980.40. If the applicant's degree does not contain the
25 number of units required by subdivision (a) of Section 4980.40,
26 the board may, in its discretion, accept the applicant's education
27 as substantially equivalent if the applicant's degree otherwise
28 complies with this section and the applicant completes the units
29 required by subdivision (a) of Section 4980.40.

30 SEC. 5. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 423 **VERSION:** AMENDED MAY 1, 2007

AUTHOR: BEALL **SPONSOR:** AUTHOR

RECOMMENDED POSITION: SUPPORT

SUBJECT: MENTAL HEALTH PARITY

Existing Law:

- 1) Prohibits a health plan which provides mental health benefits from placing an annual or lifetime limit on mental health benefits if the plan does not include a limit for substantially all medical and surgical benefits. (42 USCS § 300gg-5)
- 2) Requires health care service plan contracts and disability insurance policies which cover hospital, medical, or surgical benefits to provide coverage for the following under the same terms and conditions as other medical conditions beginning July 1, 2000:
(HSC § 1374.72(a), IC § 10144.5(a))
 - The diagnosis and treatment of severe mental illnesses
 - A child's serious emotional disturbance
- 3) Defines severe mental illness as any of the following: (HSC § 1374.72(d), IC § 10144.5(d))
 - Schizophrenia.
 - Schizoaffective disorder.
 - Bipolar disorder (manic-depressive illness).
 - Major depressive disorders.
 - Panic disorder.
 - Obsessive-compulsive disorder.
 - Pervasive developmental disorder or autism.
 - Anorexia nervosa.
 - Bulimia nervosa.
- 4) Defines "health insurance" as a disability insurance policy that provides coverage for hospital, medical, or surgical benefits in statutes effective on or after January 1, 2002. (IC § 106(b))

This Bill:

- 1) Requires health care service plan contracts which provide hospital, medical, or surgical coverage, and health insurance policies issued, amended or renewed on or after January 1, 2008 provide coverage for the diagnosis and treatment of a mental illness of a person of any age under the same terms and conditions applied to other medical conditions: (HSC § 1374.73(a), IC § 10144.7(a))
 - The diagnosis and treatment of mental illnesses
 - A child's serious emotional disturbance
- 2) Defines "mental illness" as mental disorders defined in the Diagnostic and Statistical Manual IV or subsequent editions, including substance abuse. (HSC § 1374.73(a), IC § 10144.7(a))

- 3) Does not apply to contracts entered into between the Department of Health Care Services (DHCS) and a health care service plan for enrolled Medi-Cal beneficiaries. (HSC § 1374.73(b))
- 4) Permits a plan or insurer to provide coverage for all or part of the mental health services required through a separate specialized health care service plan or mental health plan. (HSC § 1374.73(c)(1), IC § 10144.7(b)(1))
 - Does not require a plan or insurer to obtain an additional or specialized license for this purpose.
- 5) Requires a plan or insurer to provide mental health coverage in its entire service area and in emergency situations as required by law. (HSC § 1374.73(c)(2), IC § 10144.7(b)(2))
- 6) Does not preclude health care service plans that provide benefits through preferred provider contracting arrangements from requiring enrollees who reside or work in geographic areas served by specialized health care service plans or mental health plans to secure all or part of their mental health services within those geographic areas served by specialized health care service plans or mental health plans. (HSC § 1374.73(c)(2), IC § 10144.7(b)(2))
- 7) Permits a health care service plan to use case management, network providers, utilization review techniques, prior authorization, copayments, or other cost sharing when providing treatment for mental illness to the extent permitted by law. (HSC § 1374.73(c)(3))
- 8) Does not deny or restrict the DHCS' authority to ensure plan compliance when a plan provides coverage for prescription drugs. (HSC § 1374.73(d))
- 9) Permits a health insurer to use case management, managed care or utilization review when providing treatment for mental illness except as permitted by law. (IC § 10144.7(b)(3))
- 10) Prohibits any action that a health insurer takes to implement mental health parity, including but not limited to contracting with preferred provider organizations, to be deemed as an action that would otherwise require licensure as a health care service plan. (IC § 10144.7(b)(4))
- 11) Does not require mental health parity laws to apply to accident-only, specified disease, hospital indemnity, Medicare supplement, dental-only or vision-only insurance policies. (IC § 10144.7(c))

Comment:

- 1) **Author's Intent.** According to the author, many health plans do not provide coverage for mental disorders, and those that do impose much stricter limits on mental health care than on other medical care. Individuals struggling with mental illness quickly deplete limited coverage and personal savings and become dependent upon taxpayer-supported benefits. This bill would correct a serious discrimination problem while resulting in premium increases of less than one dollar per member per month. Nearly all health plans discriminate against patients with biological brain disorders such as schizophrenia, depression and posttraumatic stress disorders. Additionally, an alarming number of mentally ill persons end up incarcerated because they lack access to appropriate care. This forces law enforcement officers to serve as the mental health providers of last resort, which costs state taxpayers roughly \$1.8 billion per year.
- 2) **Mental Health Parity.** AB 88, California's mental health parity law, was enacted in 2000. This bill required health plans to provide coverage for mental health services that are equal to medical services. AB 88 covered only particular diagnoses considered to be a severe mental illness or a serious emotional disturbance of a child, and therefore is sometimes referred to as "partial parity." An evaluative study conducted by Mathematica Policy Research for the California Health Care

Foundation¹ identified so called partial parity as an ongoing challenge related to the implementation of AB 88.

Federal mental health parity legislation has been introduced this year in both the House and the Senate. Such legislation is anticipated to have a reasonable chance of being signed into law. For general information about mental health parity, please see the attached paper from Carnegie Mellon's *Heinz School Review*.

- 3) Cost and Access.** According to an analysis by the American Psychiatric Association², "Legislating diagnostic criteria for impairment on the basis of political and economic factors may limit treatment efforts and ultimately fail those most in need of care," and "Definitions of mental illness in state parity laws have important implications for access, cost, and reimbursement; they determine which populations receive a higher level of mental health services." This bill would substantially expand the types of diagnoses which must be covered, which would help to alleviate a problem that clinicians may face regarding diagnosis. Some clinicians may submit an inaccurate diagnosis, but one which is covered by current parity laws to ensure that the client is able to receive treatment.

The expansion of mental health parity should ensure that the costs are balanced with access to care. Any time costs are increased to insurers, the cost of insurance tends to increase. This is a problem for people who cannot afford an increase to insurance rates or copayments. This could lead to a decrease in insured residents and an increase in use of public mental health programs, increasing costs to the state. However, one study found that the elimination of caps on mental health coverage might not lead to increased spending.³

- 4) Board Position.** Staff has suggested a position of "support" for this bill. However, mental health parity is a large and complex issue, and this recommendation is grounded in the general idea that people should have access to mental health care. The recommendation represents the belief that the concept of mental health parity should be supported.
- 5) CHBRP Analysis.** The California Health Benefits Review Program (CHBRP), created by AB 1996 in 2003, is required to analyze all legislation proposing mandated health care benefits. This analysis will be available on April 21, 2007.

6) Support and Opposition.

Support

California Council of Community Mental Health Agencies
California Medical Association
California Mental Health Directors Association
California Psychological Association
California Society of Addiction Medicine
California Society of Clinical Social Work
California State Association of Counties
County Alcohol and Drug Program Administrators Association of California
Crestwood Behavioral Health, Inc
Mental Health Association in California
NAMI California
Protection and Advocacy, Inc.
St. Clare School
Several individuals

¹ Lake, et. al. (2002)

² "An Analysis of the Definitions of Mental Illness Used in State Parity Laws." *APA Journal*. (2002)

³ "Behavioral Health Insurance for Federal Employees," *New England Journal of Medicine*, H. Goldman et. al. Volume 354:1378-1386, March 30, 2006.

Opposition
America's Health Insurance Plans
California Association of Health Plans

7) History

2007

- May 2 Re-referred to Com. on APPR.
- May 1 Read second time and amended.
- Apr. 30 From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 12. Noes 5.) (April 24).
- Mar. 26 Re-referred to Com. on HEALTH.
- Mar. 22 Action rescinded whereby the bill was reported from committee with author's amendments and whereby the bill was read second time and amended on March 19 From committee chair, with author's amendments: Amend, and re-refer to Com. on HEALTH. Read second time and amended.
- Feb. 26 Referred to Com. on HEALTH.
- Feb. 20 From printer. May be heard in committee Marc 22.
- Feb. 16 Read first time. To print.

ATTACHMENT

"Mental Health Parity," *Heriz School Review*

AMENDED IN ASSEMBLY MAY 1, 2007

AMENDED IN ASSEMBLY MARCH 22, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 423

Introduced by Assembly Member Beall

February 16, 2007

An act to add Section 1374.73 to the Health and Safety Code and to add Section 10144.7 to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 423, as amended, Beall. Health care coverage: mental health services.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene Act), provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance. Under existing law, a health care service plan contract and a health insurance policy are required to provide coverage for the diagnosis and treatment of severe mental illnesses of a person of any age. Existing law does not define "severe mental illnesses" for this purpose but describes it as including several conditions.

This bill would expand this coverage requirement for a health care service plan contract and a health insurance policy issued, amended, or renewed on or after January 1, 2008, to include the diagnosis and treatment of a mental illness of a person of any age and would define

mental illness for this purpose as a mental disorder defined in the Diagnostic and Statistical Manual IV.

Because the bill would expand coverage requirements under the Knox-Keene Act, the willful violation of which is 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.

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

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

1 SECTION 1. Section 1374.73 is added to the Health and Safety
 2 Code, to read:
 3 1374.73. (a) A health care service plan contract issued,
 4 amended, or renewed on or after January 1, 2008, that provides
 5 hospital, medical, or surgical coverage shall provide coverage for
 6 the diagnosis and medically necessary treatment of a mental illness
 7 of a person of any age, including a child, under the same terms
 8 and conditions applied to other medical conditions as specified in
 9 subdivision (c) of Section 1374.72. The benefits provided under
 10 this section shall include all those set forth in subdivision (b) of
 11 Section 1374.72. "Mental illness" for the purposes of this section
 12 means a mental disorder defined in the Diagnostic and Statistical
 13 Manual IV, or subsequent editions, published by the American
 14 Psychiatric Association, and includes substance abuse.
 15 (b) This section shall not apply to contracts entered into pursuant
 16 to Chapter 7 (commencing with Section 14000) or Chapter 8
 17 (commencing with Section 14200) of Part 3 of Division 9 of the
 18 Welfare and Institutions Code, between the State Department of
 19 Health Care Services and a health care service plan for enrolled
 20 Medi-Cal beneficiaries.
 21 (c) (1) For the purpose of compliance with this section, a plan
 22 may provide coverage for all or part of the mental health services
 23 required by this section through a separate specialized health care
 24 service plan or mental health plan, and shall not be required to
 25 obtain an additional or specialized license for this purpose.

1 (2) A plan shall provide the mental health coverage required by
2 this section in its entire service area and in emergency situations
3 as may be required by applicable laws and regulations. For
4 purposes of this section, health care service plan contracts that
5 provide benefits to enrollees through preferred provider contracting
6 arrangements are not precluded from requiring enrollees who reside
7 or work in geographic areas served by specialized health care
8 service plans or mental health plans to secure all or part of their
9 mental health services within those geographic areas served by
10 specialized health care service plans or mental health plans.

11 (3) ~~Notwithstanding any other provision of law, in~~*In* the
12 provision of benefits required by this section, a health care service
13 plan may utilize case management, network providers, utilization
14 review techniques, prior authorization, copayments, or other cost
15 sharing *to the extent permitted by law or regulation.*

16 (d) Nothing in this section shall be construed to deny or restrict
17 in any way the department's authority to ensure plan compliance
18 with this chapter when a plan provides coverage for prescription
19 drugs.

20 SEC. 2. Section 10144.7 is added to the Insurance Code, to
21 read:

22 10144.7. (a) A policy of health insurance that covers hospital,
23 medical, or surgical expenses in this state that is issued, amended,
24 or renewed on or after January 1, 2008, shall provide coverage for
25 the diagnosis and medically necessary treatment of a mental illness
26 of a person of any age, including a child, under the same terms
27 and conditions applied to other medical conditions as specified in
28 subdivision (c) of Section 10144.5. The benefits provided under
29 this section shall include all those set forth in subdivision (b) of
30 Section 10144.5. "Mental illness" for the purposes of this section
31 means a mental disorder defined in the Diagnostic and Statistical
32 Manual IV, or subsequent editions, published by the American
33 Psychiatric Association, and includes substance abuse.

34 (b) (1) For the purpose of compliance with this section, a health
35 insurer may provide coverage for all or part of the mental health
36 services required by this section through a separate specialized
37 health care service plan or mental health plan, and shall not be
38 required to obtain an additional or specialized license for this
39 purpose.

1 (2) A health insurer shall provide the mental health coverage
2 required by this section in its entire in-state service area and in
3 emergency situations as may be required by applicable laws and
4 regulations. For purposes of this section, health insurers are not
5 precluded from requiring insureds who reside or work in
6 geographic areas served by specialized health care service plans
7 or mental health plans to secure all or part of their mental health
8 services within those geographic areas served by specialized health
9 care service plans or mental health plans.

10 (3) ~~Notwithstanding any other provision of law, in~~*In* the
11 provision of benefits required by this section, a health insurer may
12 utilize case management, managed care, or utilization review *to*
13 *the extent permitted by law or regulation.*

14 (4) Any action that a health insurer takes to implement this
15 section, including, but not limited to, contracting with preferred
16 provider organizations, shall not be deemed to be an action that
17 would otherwise require licensure as a health care service plan
18 under the Knox-Keene Health Care Service Plan Act of 1975
19 (Chapter 2.2 (commencing with Section 1340) of Division 2 of
20 the Health and Safety Code).

21 (c) This section shall not apply to accident-only, specified
22 disease, hospital indemnity, Medicare supplement, dental-only, or
23 vision-only insurance policies.

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

Mental Health Parity

Legislation and Implications for Insurers and Providers by Joseph Peters

Introduction

In 2003 in the United States, outpatient visits to physicians' offices for treatment of mental disorders numbered over 40 million, and visits to hospital emergency rooms numbered close to 4 million.¹ Clearly, treatment of mental health represents a large and significant portion of the health care system as a whole. Yet mental health coverage within insurance plans has been treated differently from physical conditions. Within the last 10 years, the debate over mental health parity with other medical and surgical benefits has taken place both at the federal and state level, starting with Congress's passage of the Mental Health Parity Act of 1996. After five subsequent extensions of the Act's sunset provision (with the current sunset provision taking effect December 31st of this year), parity remains on the Congressional agenda, although it is overshadowed by other pressing policy concerns such as the War in Iraq, Medicare, and federal budget cuts.

The issue of mental health parity is far reaching and involves many stakeholders. In this paper I will focus on the implications of mental health parity for insurers and providers. My analysis will show that the interests of providers and insurers are at odds with one another, with providers (both physicians and hospital groups) siding with patient advocacy groups.

Defining Mental Health Parity

Mental health parity refers to equivalence of coverage for mental health treatment and clinical visits compared to regular medical and surgical benefits within an insurance plan². In other words, it is the requirement that mental health coverage be subject to the same dollar limits as the medical and surgical benefits that are covered in a health insurance plan (whether it is traditional indemnity insurance or managed care insurance). In recent debates, "parity" has also been taken to include mandatory coverage of mental health services (both inpatient and outpatient); however, federal legislation has only up to this point reflected the narrower definition of equivalent coverage within existing insurance plans that already cover mental health services. Currently, advocacy groups such as the National Mental Health Association (NMHA) and the National Alliance on Mental Illness (NAMI) consider parity in its expanded form to include mandatory mental health coverage.

Legislative Overview

The Mental Health Parity Act of 1996

The major piece of federal legislation regarding mental health parity, The Mental Health Parity Act of 1996 (MHPA) was passed on Sept. 26th of 1996 as an amendment to the Health Insurance Portability and Accountability Act (HIPAA).³ At the time, numerous states had already enacted different types of parity legislation, but advocacy groups pressed for national legislation that would address the lack of parity in those states where laws had not been passed.⁴ The 1996 Act required that annual or lifetime dollar limits applying to mental health benefits be no lower than any such dollar limits applying to medical or surgical benefits offered by a group health plan or any health insurance carrier associating itself with a group plan. The law applied to those health plans' enrollment/coverage years commencing on or after January 1, 1998.⁵ Other key items included:

- A sunset provision that the requirements for parity would not apply to benefits covering specific services on or after Sept. 30, 2001. (This has been extended on five separate occasions, with the last provision expiring Dec. 31st, 2006.)
- Employers could retain discretion with respect to the extent of coverage for mental health services offered to employees and their dependents. This included cost sharing, limits on the numbers of visits or days of coverage, or requirements addressing medical necessity.⁶

The Act excluded benefits for substance abuse and chemical dependency. There were also exemptions provided to companies with a small number of employees or in cases where costs rose as a result of the mandate. The Parity Act did not mandate that benefits for mental health services be offered—only that if these benefits were offered, they have parity with the annual and lifetime dollar amounts for medical and surgical benefits. Patient advocacy groups saw problems with this legislation and argued that it was weak.⁷ They pointed out that the legislation didn't mandate parity or require that it be universal in its application. The weakness of the legislation can be partially attributed to the political climate surrounding the creation of the bill at that particular point in time; the insurance industry played a role in applying pressure to influence the outcome. After the bill was passed, employers took advantage of loopholes. Some employers placed restrictions on health benefits by limiting the number of inpatient days for mental health services covered or the number of outpatient office visits covered.

State Parity Legislation

Most legislative activity regarding parity has taken place at the state level. To date, thirty-six states have passed parity legislation, and twelve states and the District of Columbia have made mental health benefits mandatory. Two states, Idaho and Wyoming, have no parity or mandate laws. There is a wide degree of variation among state parity laws. Some states (i.e. North Carolina and Kansas) mandate specifically that only the offering of mental health coverage be included in insurance plans, and this coverage, if accepted by enrollees, be subjected to some, but not all, terms/conditions with physical benefits. In other words, if mental health coverage is taken up, there is not complete parity. Other states, such as Kentucky and Connecticut mandate that insurance companies offer mental health benefits, and if the benefits are chosen then full parity is required; therefore, there is no difference between the terms of coverage between physical and mental health services. Finally, some states recently have passed legislation mandating coverage of mental health services in all group policies and additionally require the terms and conditions, breadth, and any cost restrictions for the coverage to be no more limiting than those conditions for physical illness. Some states even extend the mandates to individual as well as group insurance plans. There is also variation in the different types of mental health services that apply to state parity legislation. Some states restrict parity requirements to "severe" mental illness, while others extend to "serious" cases, and some include full parity for all mental illnesses addressed in the DSMIV, as well as services for substance abuse and alcoholism.⁸

Why such variation across the states? Are there any solid successes for patients? The answers to these questions revolve around the issue of utilization. Two years after the federal Parity Act was passed, Roland Sturm and Liccardo Pacula conducted a study that found that states with parity laws tended to have lower rates of utilization of mental health services. This remained the case even after controlling for confounding variables such as age, gender, income, ethnicity or region of the country.⁹ Sturm and Pacula also found that before and after the passage of state parity legislation, rates of utilization for mental health services were largely unchanged. These results, if accepted as prima facie evidence, suggest that parity legislation does not increase utilization, and hence not increase costs.

The study goes further to suggest that since parity legislation was passed in states without high rates of utilization, the resulting legislation was the result of a "political process" in which patient advocacy groups and insurance companies/employer organizations battled it out; patient advocacy groups and provider organizations were drawn to states with a small number of people receiving (or using) mental health services and saw it as an opportunity to affect a change in policy. The low numbers of patients utilizing services also allowed little opposition to the parity legislation.¹⁰

Implications for Insurers and Providers

Insurers

The Health Insurance Association of America (HIAA) has from the beginning of the parity debate argued that any legislation, state or federal, mandating mental health benefits would increase health costs, and increase the rolls of the uninsured. The organization has claimed that roughly 20 to 25 percent of the uninsured are not covered as a result of mandates.¹¹ Other studies conducted by academic institutions and non-profit research organizations have had contrary findings.

Managed care, specifically within the context of Managed Behavioral Healthcare Organizations (MBHO's), offers the chance to offset the purported increased costs of parity. Research by the RAND Corporation conducted shortly after the passage of the 1996 federal parity legislation concluded that given unlimited mental health benefits, under managed care, benefits cost "virtually the same" as those benefits that were capped; the typical increase was found to be \$1 per employee when compared with benefits falling under a \$25,000 limit.¹² During the national debate over parity legislation, insurance groups argued that even under managed care parity would drive up costs; the RAND study disputed that claim. In the end, it becomes difficult to discern the true effects of parity legislation on costs, with a large body of research split and attached to both parity's proponents and its dissenters.

A final implication for insurers has been the need after any state parity legislation and after the federal 1996 law to redesign benefit schemes to reflect compliance. During the period between passage of the federal 1996 parity legislation and its enforcement date, RAND conducted a study of 4,000 firms and found that 90% of these firms' mental health plans were not consistent with the parity legislation and hence necessitated revision. At the same time, research found that inefficiencies and unnecessary complexities could be eliminated under such a benefit redesign.¹³

Providers

Providers, composed of both physician groups such as the American Medical Association (AMA) and hospital groups such as the American Hospital Association (AHA) have on the other hand expressed positions that parallel those of patient advocacy groups (i.e. NAMI and NMHA). The American Medical Association has called for state medical associations to press for mental health parity at the state level. The AMA also supports parity with respect to coverage of substance abuse and alcoholism-treatment programs. The AMA has allied itself with the American Psychiatric Association (APA) in its lobbying efforts.¹⁴

The AHA sent a letter to Senator Pete Domenici, co-sponsor of current legislation that will expand provisions of the federal parity act of 1996, affirming its support of the legislation. They wrote that they admired Domenici's "leadership in promoting nondiscriminatory insurance coverage for those that suffer mental illness..."¹⁵ The justification for the support from both physician and hospital groups of parity legislation is not clearly stated in their respective professional publications. However, hospitals—both for-profit and non-profit—ultimately serve the community as well as a board of directors. So they have a vested interest in ensuring access to their services—specifically if the costs of these services (mainly mental health services) are placed on insurance plans. Physician groups also have a vested interest in the issue of access, especially if they are reimbursed under capitation or fee schedules instead of being paid a set salary. Several studies have confirmed that financial incentives may have an impact on mental health providers' courses of treatment.¹⁶[17]

Conclusion

In the debate over mental health parity the incentives facing insurers are quite the opposite of those facing provider groups. Insurers face the imperative of compliance with state and federal parity legislation, while at the same time trying to offset costs. Providers must act in accordance with professional expectations (the AMA) and those of the community (in the case of the AHA). In the end, the outcomes of mental health parity legislation have reflected the various concerns of both insurance and provider groups. The debate continues with the same concerns. Ultimately, as seen at the state level, what proved to be successful was the fact that

patient advocacy groups worked in states with low rates of utilization, thus encountering few opposition groups. States with large rates of utilization must overcome the legislative obstacles that exist to see any lasting results of parity legislation.

Works Cited

- Agency for Healthcare Research and Quality. "Consumer input is a critical component of efforts to improve the quality of behavioral health care services." Research Activities. June 2001. <http://www.ahrq.gov/research/jun01/601RA7.htm> (accessed Oct. 19, 2005).
- . "Financial Incentives May Influence Health Care Providers' Mental Health Treatment Decisions." Research Activities. Dec. 1999. <http://www.ahrq.gov/research/dec99/1299ra11.htm> (accessed Oct. 19, 2005).
- . "Mental health visits are cut by one-fourth when providers are paid a fixed rate per patient." Research Activities. Feb. 2001. <http://www.ahrq.gov/research/feb01/201RA16.htm> (accessed Oct. 19, 2005).
- . "Health Care Costs and Financing: Inequities continue in reimbursement for mental health care compared with physical health care." Research Activities. Dec. 2004. <http://www.ahrq.gov/research/dec04/1204RA31.htm> (accessed Oct. 19, 2005).
- American Hospital Association. "Letters to the Hill: To the Honorable David Obey Ranking Minority Member." 7 Nov. 2001. <http://www.aha.org/aha/advocacy-grass-roots/advocacy/hillletters/Hill> (accessed Nov. 19, 2005).
- . "Letters to the Hill: To the Honorable Pete V. Domenici." 10 July 2001. <http://www.aha.org/aha/advocacy-grassroots/advocacy/hillletters/Hill> (accessed Nov. 19, 2005).
- American Medical Association. "D-180.998: Insurance Parity for Mental Health and Psychiatry." Policy Finder. 24 Sept. 2005. http://www.ama-assn.org/apps/pf_new/pf_online?f_n=browser&doc=p (accessed Nov. 19, 2005).
- Centers for Medicare and Medicaid Services. "The Mental Health Parity Act." HIPAA Insurance Reform: Health Insurance Portability and Accountability Act. Department of Health and Human Services. 09 Feb. 2005. <http://www.cms.hhs.gov/hipaa/hipaa1/content/mhpa.asp> (accessed Nov. 19, 2005).
- Gitterman, Daniel P, Roland Sturm, Rosalie Liccardo Pacula, and Richard M. Scheffler. "Does the Sunset of Mental Health Really Matter?" Administration and Policy in Mental Health 28, no. 5 (2001): 353–369.
- Hasty, Susan. "Coalition cites crisis in mental health system." Mental Health Law Weekly (24 August 2005): 7. Accessed through LexisNexis™ Academic Universe: <http://web.lexis-nexis.com/universe> November 13, 2005.
- Huber, Sam. "Parity in Mental Health Coverage "Moral Hazard, Adverse Selection, and the Domenici/Wellstone Act." Journal Discussion. American Medical Association. Jan. 2002. <http://www.ama-assn.org/ama/pub/category/print/7033.html> (accessed Nov. 19, 2005).
- Jacobi, John V. "Parity and Difference: The Value of Parity Legislation for the Seriously Mentally Ill." American Journal of Law and Medicine 29, no. 2–3 (2003): 185–201. Accessed through LexisNexis™ Academic Universe: <http://web.lexis-nexis.com/universe> November 13, 2005.
- National Alliance on Mental Illness. "National Legislation." 2005. http://www.nami.org/Template.cfm?Section=Issue_Spotlights7template (accessed Oct. 19, 2005; page now discontinued).
- . "Paul Wellstone Mental Health Equitable Treatment Act of 2003 Introduced." 28 Feb. 2003. http://www.nami.org/Content/ContentGroups/E-News/2003/February_2003/Paul_Wellstone_Mental_Health_Equitable_Treatment_Act_of_2003_Introduced.htm (accessed Oct. 19, 2005).
- . "Policymaker's Fact Sheet on the Mental Health System." 26 Sept. 2002.
- . "State Mental Illness Parity Laws: Chart of State Laws." 2005. http://www.nami.org/Content/ContentGroups/Policy/State_Mental_Illness_Parity_Laws_State-by-State_Chart.htm (accessed Oct. 19, 2005).
- . "State Mental Illness Parity Laws: Overview of State Parity Laws." 2005. http://www.nami.org/Content/ContentGroups/Policy/State_Mental_Illness_Parity_Laws.htm (accessed Oct. 19, 2005).
- National Association of Health Underwriters. "Mandated Health Insurance Benefits." Legislative Advocacy: Issues. 2003. <http://www.nahu.org/legislative/mandated/index.cfm> (accessed Nov. 19, 2005).
- National Center for Health Statistics. "Fast Stats A to Z: Mental Health Disorders." Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. 14 Nov. 2005. <http://www.cdc.gov/nchs/faststats/mental.htm> (accessed Nov. 19, 2005).
- National Mental Health Association. "Mental Health Parity Timeline." 2005. <http://www.nmha.org/state/parity/Timeline.cfm> (accessed Oct. 19, 2005; page now discontinued).
- . "Other Parity News." Aug. 2005 <http://www.nmha.org/state/parity/index.cfm> (accessed Oct. 19, 2005).
- . "What Have States Done to Ensure Health Insurance Parity?." Sept. 2005. http://www.nmha.org/state/parity/state_parity.cfm (accessed Oct. 19, 2005).
- Perez, Janet A. "Mental Health Parity Act of 1996: Summary of the Interim Rules Relating to Group Health Plans." Employee Benefits Journal 23, no. 2 (1998): 14–17.
- RAND. "Are People with Mental Illness Getting the Help They Need?" RAND Health Research Highlights. 2000. http://www.rand.org/pubs/research_briefs/RB4533/index1.html (accessed Nov. 13, 2005).

—. “How Does Managed Care Affect the Cost of Mental Health Services?” RAND Health Research Highlights, 1998. http://www.rand.org/pubs/research_briefs/RB4515/index1.html (accessed Nov. 13, 2005).
“Snowe Introduces Medicare Mental Health Copayment Equity Act.” States News Service – Washington, 27 May 2005. Accessed through LexisNexis™ Academic Universe <http://web.lexis-nexis.com/universe> Nov. 13, 2005.
Sturm, Roland and Rosalie Liccardo Pacula. “State Mental Health Laws: Cause or Consequence of Differences in Use?” Health Affairs 18, no. 5 (1999): 182–192.
Ziegler, Jan. “The Realities of Mental Health Parity in the U.S.” Business & Health 18, no. 7 (2000): 16–21.
Zuvekas, Samuel H, Agnes E. Rupp, and Grayson S. Norquist. “The Impacts of Mental Health Parity and Managed Care in One Large Employer Group: A Reexamination.” Health Affairs 24, no. 6 (2005): 1668–1671.

¹ National Center for Health Statistics, “Fast Stats A to Z: Mental Health Disorders,” Centers for Disease Control and Prevention, U.S. Department of Health and Human Services, 14 Nov. 2005, <http://www.cdc.gov/nchs/fastats/mental.htm>.

² Centers for Medicare and Medicaid Services, “The Mental Health Parity Act,” HIPAA Insurance Reform: Health Insurance Portability and Accountability Act, Department of Health and Human Services, 09 Feb. 2005, <http://www.cms.hhs.gov/hipaa/hipaa1/content/mhpa.asp>.

³ Ibid.

⁴ From this point, I will refer to Mental Health Parity Legislation simply as “parity legislation” and Mental Health Parity simply as “parity.”

⁵ Centers for Medicare and Medicaid Services, “The Mental Health Parity Act,” HIPAA Insurance Reform: Health Insurance Portability and Accountability Act, Department of Health and Human Services, 09 Feb. 2005, <http://www.cms.hhs.gov/hipaa/hipaa1/content/mhpa.asp>.

⁶ Ibid.

⁷ Jacobi, John V, “Parity and Difference: The Value of Parity Legislation for the Seriously Mentally Ill,” American Journal of Law and Medicine 29, no. 2–3 (2003): 185–201. Accessed through LexisNexis™ Academic Universe: <http://web.lexis-nexis.com/universe> November 13, 2005.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ziegler, Jan, “The Realities of Mental Health Parity in the U.S.” Business & Health 18, no. 7 (2000): 16–21.

¹² Rand, “How Does Managed Care Affect the Cost of Mental Health Services?” RAND Health Research Highlights, 1998, http://www.rand.org/pubs/research_briefs/RB4515/index1.html (accessed Nov. 13, 2005).

¹³ Ibid.

¹⁴ American Medical Association, “D-180.998: Insurance Parity for Mental Health and Psychiatry,” Policy Finder, 24 Sept. 2005, http://www.ama-assn.org/apps/pf_new/pf_online?f_n=browser&doc=p.

¹⁵ American Hospital Association, “Letters to the Hill: To the Honorable Pete V. Domenici,” 10 July 2001, <http://www.aha.org/aha/advocacy-grassroots/advocacy/hillletters/Hill>.

¹⁶ Agency for Healthcare Research and Quality, “Mental health visits are cut by one-fourth when providers are paid a fixed rate per patient,” Research Activities, Feb. 2001, <http://www.ahrq.gov/research/feb01/201RA16.htm>.

¹⁷ —, “Financial Incentives May Influence Health Care Providers’ Mental Health Treatment Decisions.” Research Activities, Dec. 1999, <http://www.ahrq.gov/research/dec99/1299ra11.htm>
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CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 673 **VERSION:** INTRODUCED FEBRUARY 21, 2007

AUTHOR: HAYASHI **SPONSOR:** CAMFT

RECOMMENDED POSITION: NONE

SUBJECT: CHILD ABUSE REPORTING

Existing Law:

- 1) Defines "child abuse or neglect" as: (Penal Code [PC] § § 11165.3, 11165.6)
 - Physical injury inflicted intentionally upon a child
 - Sexual abuse
 - Neglect
 - Intentionally causing or permitting a child to suffer
 - Inflicting unjustifiable physical pain or mental suffering
 - Causing or permitting the child to be placed in a situation where the child or the child's health is endangered
 - Unlawful corporal punishment or injury.
- 2) Defines "severe neglect" as: (PC § 11165.2(a))
 - The negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive.
 - Situations of neglect where a person having the care or custody of a child willfully causes or permits the child to be endangered, including the intentional failure to provide adequate food, clothing, shelter, or medical care.
- 3) Requires the following practitioners to report suspected child abuse or neglect: (PC § 11165.7)
 - Marriage and Family Therapists (MFT), MFT interns and trainees
 - Social workers, including Licensed Clinical Social Workers (LCSW) and Associate Clinical Social Workers (ACSW)
 - Licensed Educational Psychologists (LEP)
 - Other persons and professionals who come into direct contact with children, elders, and dependent adults
- 4) Requires a mandated reporter to report child abuse immediately or as soon as possible by telephone and in writing within 36 hours when, in his or her professional capacity, he or she reasonably suspects a child has been the victim of child abuse or neglect. (PC § 11166(a))
- 5) Permits "any other person" who has knowledge of or observes a child whom he or she knows or suspects has been a victim or child abuse or neglect to make a report. (PC § 11166(g))
- 6) Permits "any other person" who makes a report of child abuse or neglect to make that report anonymously. (PC § 11167(f))

- 7) Establishes that a mandated reporter who fails to report an incident of known or suspected child abuse or neglect is guilty of a misdemeanor punishable by up to six months in a county jail or by a fine of one thousand dollars or by both that imprisonment and fine. (PC § 11166(c))

This Bill:

- 1) Adds “death inflicted by other than accidental means” to the definition of "child abuse or neglect.” (PC § 11165.6)
- 2) Clarifies that a mandated reporter may report known or suspected child abuse when the mandated reporter acts in his or her private capacity and not in his or her professional capacity. (PC § 11166(g))

Comment:

- 1) **Author’s Intent.** According to the sponsor, the California Association of Marriage and Family Therapists (CAMFT), it is important to make clear in the definition of child abuse that the death of a child, as opposed to a mere injury, is reportable. Additionally, they feel it is important to clarify that mandated reporters who report in their private capacities are permitted to report child abuse. By making this clear, it will allow these persons to report anonymously (as is the case for any other person) when they observe a child who may have been abused, but outside of their professional role or scope of employment.
- 2) **Child Death.** Current law already requires a child’s death to be reported when it is the result of physical abuse or when there is evidence of prior physical abuse or severe neglect. However, this bill would make this requirement more explicit.
- 3) **Mandated Reporters.** Currently, mandated reporters are permitted to make an anonymous report as a private citizen when they observe child abuse in their private capacity, outside the scope of their employment. This bill would make this authorization more explicit.

4) Support and Opposition.

Support

California Association of Marriage and Family Therapists (Sponsor)
California Psychiatric Association
American Federation of State, County, and Municipal Employees

Opposition

Not known at this time

5) History

2007

May 9 Referred to Com. on PUB. S.
May 3 In Senate. Read first time. To Com. on RLS. for assignment.
May 3 Read third time, passed, and to Senate.
Apr. 30 Read second time. To Consent Calendar.
Apr. 26 From committee: Do pass. To Consent Calendar. (April 25).
Apr. 11 From committee: Do pass, and re-refer to Com. on APPR. with recommendation: To Consent Calendar. Re-referred. (Ayes 7. Noes 0.) (April 10).
Mar. 8 Referred to Com. on PUB. S.

Feb. 22 From printer. May be heard in committee March 24.
Feb. 21 Read first time. To print.

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ASSEMBLY BILL

No. 673

Introduced by Assembly Member Hayashi

February 21, 2007

An act to amend Sections 11165.6 and 11166 of the Penal Code, relating to child abuse.

LEGISLATIVE COUNSEL'S DIGEST

AB 673, as introduced, Hayashi. Child abuse or neglect: mandated reports.

Existing law, the Child Abuse and Neglect Reporting Act, requires the filing of a report with a police department or county sheriff's office or county welfare department by a mandated reporter, as defined, who, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. For the purposes of these provisions, the term "child abuse or neglect" is defined as including physical injury inflicted by other than accidental means. Failure to file a mandated report is a misdemeanor.

This bill would amend the term "child abuse or neglect" to include death inflicted by other than accidental means.

Existing law also provides that any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect.

This bill would specify that these provisions apply to a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.

Because this bill would increase the duties of local officials, and increase the scope of a crime, this bill would impose a state-mandated local program.

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

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 11165.6 of the Penal Code is amended
2 to read:

3 11165.6. As used in this article, the term “child abuse or
4 neglect” includes physical injury *or death* inflicted by other than
5 accidental means upon a child by another person, sexual abuse as
6 defined in Section 11165.1, neglect as defined in Section 11165.2,
7 the willful harming or injuring of a child or the endangering of the
8 person or health of a child, as defined in Section 11165.3, and
9 unlawful corporal punishment or injury as defined in Section
10 11165.4. “Child abuse or neglect” does not include a mutual affray
11 between minors. “Child abuse or neglect” does not include an
12 injury caused by reasonable and necessary force used by a peace
13 officer acting within the course and scope of his or her employment
14 as a peace officer.

15 SEC. 2. Section 11166 of the Penal Code is amended to read:

16 11166. (a) Except as provided in subdivision (d), and in
17 Section 11166.05, a mandated reporter shall make a report to an
18 agency specified in Section 11165.9 whenever the mandated
19 reporter, in his or her professional capacity or within the scope of
20 his or her employment, has knowledge of or observes a child whom
21 the mandated reporter knows or reasonably suspects has been the
22 victim of child abuse or neglect. The mandated reporter shall make
23 an initial report to the agency immediately or as soon as is

1 practicably possible by telephone and the mandated reporter shall
2 prepare and send, fax, or electronically transmit a written followup
3 report thereof within 36 hours of receiving the information
4 concerning the incident. The mandated reporter may include with
5 the report any nonprivileged documentary evidence the mandated
6 reporter possesses relating to the incident.

7 (1) For the purposes of this article, “reasonable suspicion” means
8 that it is objectively reasonable for a person to entertain a suspicion,
9 based upon facts that could cause a reasonable person in a like
10 position, drawing, when appropriate, on his or her training and
11 experience, to suspect child abuse or neglect. For the purpose of
12 this article, the pregnancy of a minor does not, in and of itself,
13 constitute a basis for a reasonable suspicion of sexual abuse.

14 (2) The agency shall be notified and a report shall be prepared
15 and sent, faxed, or electronically transmitted even if the child has
16 expired, regardless of whether or not the possible abuse was a
17 factor contributing to the death, and even if suspected child abuse
18 was discovered during an autopsy.

19 (3) Any report made by a mandated reporter pursuant to this
20 section shall be known as a mandated report.

21 (b) If after reasonable efforts a mandated reporter is unable to
22 submit an initial report by telephone, he or she shall immediately
23 or as soon as is practicably possible, by fax or electronic
24 transmission, make a one-time automated written report on the
25 form prescribed by the Department of Justice, and shall also be
26 available to respond to a telephone followup call by the agency
27 with which he or she filed the report. A mandated reporter who
28 files a one-time automated written report because he or she was
29 unable to submit an initial report by telephone is not required to
30 submit a written followup report.

31 (1) The one-time automated written report form prescribed by
32 the Department of Justice shall be clearly identifiable so that it is
33 not mistaken for a standard written followup report. In addition,
34 the automated one-time report shall contain a section that allows
35 the mandated reporter to state the reason the initial telephone call
36 was not able to be completed. The reason for the submission of
37 the one-time automated written report in lieu of the procedure
38 prescribed in subdivision (a) shall be captured in the Child Welfare
39 Services/Case Management System (CWS/CMS). The department
40 shall work with stakeholders to modify reporting forms and the

1 CWS/CMS as is necessary to accommodate the changes enacted
2 by these provisions.

3 (2) This subdivision shall not become operative until the
4 CWS/CMS is updated to capture the information prescribed in this
5 subdivision.

6 (3) This subdivision shall become inoperative three years after
7 this subdivision becomes operative or on January 1, 2009, which
8 ever occurs first.

9 (4) On the inoperative date of these provisions, a report shall
10 be submitted to the counties and the Legislature by the Department
11 of Social Services that reflects the data collected from automated
12 one-time reports indicating the reasons stated as to why the
13 automated one-time report was filed in lieu of the initial telephone
14 report.

15 (5) Nothing in this section shall supersede the requirement that
16 a mandated reporter first attempt to make a report via telephone,
17 or that agencies specified in Section 11165.9 accept reports from
18 mandated reporters and other persons as required.

19 (c) Any mandated reporter who fails to report an incident of
20 known or reasonably suspected child abuse or neglect as required
21 by this section is guilty of a misdemeanor punishable by up to six
22 months confinement in a county jail or by a fine of one thousand
23 dollars (\$1,000) or by both that imprisonment and fine. If a
24 mandated reporter intentionally conceals his or her failure to report
25 an incident known by the mandated reporter to be abuse or severe
26 neglect under this section, the failure to report is a continuing
27 offense until an agency specified in Section 11165.9 discovers the
28 offense.

29 (d) (1) A clergy member who acquires knowledge or a
30 reasonable suspicion of child abuse or neglect during a penitential
31 communication is not subject to subdivision (a). For the purposes
32 of this subdivision, "penitential communication" means a
33 communication, intended to be in confidence, including, but not
34 limited to, a sacramental confession, made to a clergy member
35 who, in the course of the discipline or practice of his or her church,
36 denomination, or organization, is authorized or accustomed to hear
37 those communications, and under the discipline, tenets, customs,
38 or practices of his or her church, denomination, or organization,
39 has a duty to keep those communications secret.

1 (2) Nothing in this subdivision shall be construed to modify or
2 limit a clergy member's duty to report known or suspected child
3 abuse or neglect when the clergy member is acting in some other
4 capacity that would otherwise make the clergy member a mandated
5 reporter.

6 (3) (A) On or before January 1, 2004, a clergy member or any
7 custodian of records for the clergy member may report to an agency
8 specified in Section 11165.9 that the clergy member or any
9 custodian of records for the clergy member, prior to January 1,
10 1997, in his or her professional capacity or within the scope of his
11 or her employment, other than during a penitential communication,
12 acquired knowledge or had a reasonable suspicion that a child had
13 been the victim of sexual abuse that the clergy member or any
14 custodian of records for the clergy member did not previously
15 report the abuse to an agency specified in Section 11165.9. The
16 provisions of Section 11172 shall apply to all reports made pursuant
17 to this paragraph.

18 (B) This paragraph shall apply even if the victim of the known
19 or suspected abuse has reached the age of majority by the time the
20 required report is made.

21 (C) The local law enforcement agency shall have jurisdiction
22 to investigate any report of child abuse made pursuant to this
23 paragraph even if the report is made after the victim has reached
24 the age of majority.

25 (e) Any commercial film and photographic print processor who
26 has knowledge of or observes, within the scope of his or her
27 professional capacity or employment, any film, photograph,
28 videotape, negative, or slide depicting a child under the age of 16
29 years engaged in an act of sexual conduct, shall report the instance
30 of suspected child abuse to the law enforcement agency having
31 jurisdiction over the case immediately, or as soon as practicably
32 possible, by telephone and shall prepare and send, fax, or
33 electronically transmit a written report of it with a copy of the film,
34 photograph, videotape, negative, or slide attached within 36 hours
35 of receiving the information concerning the incident. As used in
36 this subdivision, "sexual conduct" means any of the following:

37 (1) Sexual intercourse, including genital-genital, oral-genital,
38 anal-genital, or oral-anal, whether between persons of the same or
39 opposite sex or between humans and animals.

40 (2) Penetration of the vagina or rectum by any object.

1 (3) Masturbation for the purpose of sexual stimulation of the
2 viewer.

3 (4) Sadoomasochistic abuse for the purpose of sexual stimulation
4 of the viewer.

5 (5) Exhibition of the genitals, pubic, or rectal areas of any person
6 for the purpose of sexual stimulation of the viewer.

7 (f) Any mandated reporter who knows or reasonably suspects
8 that the home or institution in which a child resides is unsuitable
9 for the child because of abuse or neglect of the child shall bring
10 the condition to the attention of the agency to which, and at the
11 same time as, he or she makes a report of the abuse or neglect
12 pursuant to subdivision (a).

13 (g) Any other person who has knowledge of or observes a child
14 whom he or she knows or reasonably suspects has been a victim
15 of child abuse or neglect may report the known or suspected
16 instance of child abuse or neglect to an agency specified in Section
17 11165.9. *For purposes of this section, "any other person" includes*
18 *a mandated reporter who acts in his or her private capacity and*
19 *not in his or her professional capacity or within the scope of his*
20 *or her employment.*

21 (h) When two or more persons, who are required to report,
22 jointly have knowledge of a known or suspected instance of child
23 abuse or neglect, and when there is agreement among them, the
24 telephone report may be made by a member of the team selected
25 by mutual agreement and a single report may be made and signed
26 by the selected member of the reporting team. Any member who
27 has knowledge that the member designated to report has failed to
28 do so shall thereafter make the report.

29 (i) (1) The reporting duties under this section are individual,
30 and no supervisor or administrator may impede or inhibit the
31 reporting duties, and no person making a report shall be subject
32 to any sanction for making the report. However, internal procedures
33 to facilitate reporting and apprise supervisors and administrators
34 of reports may be established provided that they are not inconsistent
35 with this article.

36 (2) The internal procedures shall not require any employee
37 required to make reports pursuant to this article to disclose his or
38 her identity to the employer.

39 (3) Reporting the information regarding a case of possible child
40 abuse or neglect to an employer, supervisor, school principal,

1 school counselor, coworker, or other person shall not be a substitute
2 for making a mandated report to an agency specified in Section
3 11165.9.

4 (j) A county probation or welfare department shall immediately,
5 or as soon as practicably possible, report by telephone, fax, or
6 electronic transmission to the law enforcement agency having
7 jurisdiction over the case, to the agency given the responsibility
8 for investigation of cases under Section 300 of the Welfare and
9 Institutions Code, and to the district attorney's office every known
10 or suspected instance of child abuse or neglect, as defined in
11 Section 11165.6, except acts or omissions coming within
12 subdivision (b) of Section 11165.2, or reports made pursuant to
13 Section 11165.13 based on risk to a child which relates solely to
14 the inability of the parent to provide the child with regular care
15 due to the parent's substance abuse, which shall be reported only
16 to the county welfare or probation department. A county probation
17 or welfare department also shall send, fax, or electronically transmit
18 a written report thereof within 36 hours of receiving the information
19 concerning the incident to any agency to which it makes a
20 telephone report under this subdivision.

21 (k) A law enforcement agency shall immediately, or as soon as
22 practicably possible, report by telephone, fax, or electronic
23 transmission to the agency given responsibility for investigation
24 of cases under Section 300 of the Welfare and Institutions Code
25 and to the district attorney's office every known or suspected
26 instance of child abuse or neglect reported to it, except acts or
27 omissions coming within subdivision (b) of Section 11165.2, which
28 shall be reported only to the county welfare or probation
29 department. A law enforcement agency shall report to the county
30 welfare or probation department every known or suspected instance
31 of child abuse or neglect reported to it which is alleged to have
32 occurred as a result of the action of a person responsible for the
33 child's welfare, or as the result of the failure of a person responsible
34 for the child's welfare to adequately protect the minor from abuse
35 when the person responsible for the child's welfare knew or
36 reasonably should have known that the minor was in danger of
37 abuse. A law enforcement agency also shall send, fax, or
38 electronically transmit a written report thereof within 36 hours of
39 receiving the information concerning the incident to any agency
40 to which it makes a telephone report under this subdivision.

1 SEC. 3. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution for certain
3 costs that may be incurred by a local agency or school district
4 because, in that regard, this act creates a new crime or infraction,
5 eliminates a crime or infraction, or changes the penalty for a crime
6 or infraction, within the meaning of Section 17556 of the
7 Government Code, or changes the definition of a crime within the
8 meaning of Section 6 of Article XIII B of the California
9 Constitution.
10 However, if the Commission on State Mandates determines that
11 this act contains other costs mandated by the state, reimbursement
12 to local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: AB 1178 **VERSION:** INTRODUCED FEBRUARY 23, 2007

AUTHOR: HERNANDEZ **SPONSOR:** CAMFT

RECOMMENDED POSITION: NONE

SUBJECT: MEDICAL INFORMATION: DISCLOSURES

Existing Law:

- 1) Defines "licensed health care professional" to include all Board licensees and registrants, among others. (CvC § 56.05 (e))
- 2) Defines "medical information" as any individually identifiable information in possession of or derived from a provider of health care, health care service plan, pharmaceutical company, or contractor regarding a patient's medical history, mental or physical condition, or treatment. "Individually identifiable" means that the medical information includes or contains any element of personal information sufficient to allow identification of the individual. (CvC § 56.05(g))
- 3) Defines "Provider of health care" to include all Board licensees and registrants, among others. (CvC § 56.05(j))
- 4) Prohibits a provider of health care from disclosing medical information regarding a patient without first obtaining an authorization, except in specified situations. (CvC § 56.10(a))
- 5) Prohibits a provider of health care from releasing medical information to those authorized by law to receive that information, if the requested information specifically relates to the patient's participation in outpatient treatment with a psychotherapist, unless the person or entity requesting that information submits to the patient and to the provider a written request, signed by the person requesting the information or an authorized agent of the entity requesting the information. (CvC § 56.104(a))
- 6) Requires a therapist who determines, according to professional standards that a patient presents a serious danger of violence to another, to use reasonable care to protect the intended victim(s) against such danger. This includes warning the intended victim(s), the police, or taking whatever other steps are reasonably necessary under the circumstances. (Tarasoff, supra, 17 Cal.3d)
- 7) Requires a therapist whose patient has communicated a serious threat of physical violence against a reasonably identifiable victim(s) to communicate the threat to the victim(s) and police. (CvC § 43.92)
- 8) Requires a mental health professional to breach confidentiality when the professional reasonably suspects that the patient may present a threat to another or another's property. (EvC § 1024)

- 9) Requires a psychotherapist to warn a potential victim(s) if information communicated to the psychotherapist leads the therapist to believe or predict that the patient poses a serious risk of grave bodily injury to another. (Ewing v. Goldstein (2004), Cal.App.4th)
- 10) Defines "confidential communication between patient and psychotherapist" as: (EvC § 1012)
 - Information obtained from examining a patient
 - Information transmitted between a patient and psychotherapist in confidence and to no one else except:
 - Information transmitted to those who are present to further the interest of the patient
 - Information transmitted to those necessary to accomplish the goals of treatment
 - The psychotherapist's diagnosis and advice

This Bill:

- 1) Permits a provider of health care to disclose medical information when a psychotherapist has reasonable cause to believe that the patient is in such a mental or emotional condition as to be dangerous to himself or herself or to the person or property of another and that disclosure is necessary to prevent the threatened danger. (CvC § 56.10(a))

Comment:

1) **Author's Intent.** The sponsor, the California Association of Marriage and Family Therapists (CAMFT) states that the change proposed by this bill parallels current law on the subject of a dangerous patient. The California Medical Records Confidentiality Act (CMIA) lists exemptions to provider-patient confidentiality, and the dangerous client exemption is not currently included. However, the authority for a therapist to disclose confidential information about a dangerous patient already appears in the Evidence Code as an exemption to the provider-patient privilege, which has already been interpreted by some courts as an exemption to therapist-client confidentiality if the dangerous patient situation occurs.

2) **Confidentiality.** This bill clarifies in the CMIA that a psychotherapist may breach confidentiality in the case of a dangerous patient. Evidence Code Section 1024 already permits therapists to take this action, so this bill would make a conforming change.

3) **Support and Opposition.**

Support

California Association of Marriage and Family Therapists (sponsor)
 California Psychological Association
 California Society for Clinical Social Work

Opposition

Not known at this time.

4) **History**

2007

May 2 From committee: Do pass, and re-refer to Com. on JUD. Re-referred.
 (Ayes 16. Noes 0.) (May 1).

Mar. 27 In committee: Set, first hearing. Hearing canceled at the request of author.

Mar. 15 Referred to Coms. on HEALTH and JUD.

Feb. 26 Read first time.

Feb. 25 From printer. May be heard in committee March 27.

Feb. 23 Introduced. To print.

ASSEMBLY BILL

No. 1178

Introduced by Assembly Member Hernandez

February 23, 2007

An act to amend Section 56.10 of the Civil Code, relating to medical information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1178, as introduced, Hernandez. Medical information: disclosures.

The Confidentiality of Medical Information Act prohibits a provider of health care, health care service plan, or contractor, as defined, from disclosing medical information regarding a patient, enrollee, or subscriber, except as authorized by that patient, enrollee, or subscriber, or as otherwise required or authorized by law.

This bill would further except from that prohibition, the disclosure of medical information under circumstances in which a psychotherapist, as defined, has reasonable cause to believe that a patient is a danger to himself or herself or to the person or property of another and that disclosure is necessary to prevent the threatened danger.

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

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

1 SECTION 1. Section 56.10 of the Civil Code is amended to
2 read:
3 56.10. (a) No provider of health care, health care service plan,
4 or contractor shall disclose medical information regarding a patient
5 of the provider of health care or an enrollee or subscriber of a

1 health care service plan without first obtaining an authorization,
2 except as provided in subdivision (b) or (c).

3 (b) A provider of health care, a health care service plan, or a
4 contractor shall disclose medical information if the disclosure is
5 compelled by any of the following:

6 (1) By a court pursuant to an order of that court.

7 (2) By a board, commission, or administrative agency for
8 purposes of adjudication pursuant to its lawful authority.

9 (3) By a party to a proceeding before a court or administrative
10 agency pursuant to a subpoena, subpoena duces tecum, notice to
11 appear served pursuant to Section 1987 of the Code of Civil
12 Procedure, or any provision authorizing discovery in a proceeding
13 before a court or administrative agency.

14 (4) By a board, commission, or administrative agency pursuant
15 to an investigative subpoena issued under Article 2 (commencing
16 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title
17 2 of the Government Code.

18 (5) By an arbitrator or arbitration panel, when arbitration is
19 lawfully requested by either party, pursuant to a subpoena duces
20 tecum issued under Section 1282.6 of the Code of Civil Procedure,
21 or any other provision authorizing discovery in a proceeding before
22 an arbitrator or arbitration panel.

23 (6) By a search warrant lawfully issued to a governmental law
24 enforcement agency.

25 (7) By the patient or the patient's representative pursuant to
26 Chapter 1 (commencing with Section 123100) of Part 1 of Division
27 106 of the Health and Safety Code.

28 (8) By a coroner, when requested in the course of an
29 investigation by the coroner's office for the purpose of identifying
30 the decedent or locating next of kin, or when investigating deaths
31 that may involve public health concerns, organ or tissue donation,
32 child abuse, elder abuse, suicides, poisonings, accidents, sudden
33 infant deaths, suspicious deaths, unknown deaths, or criminal
34 deaths, or when otherwise authorized by the decedent's
35 representative. Medical information requested by the coroner under
36 this paragraph shall be limited to information regarding the patient
37 who is the decedent and who is the subject of the investigation and
38 shall be disclosed to the coroner without delay upon request.

39 (9) When otherwise specifically required by law.

1 (c) A provider of health care or a health care service plan may
2 disclose medical information as follows:

3 (1) The information may be disclosed to providers of health
4 care, health care service plans, contractors, or other health care
5 professionals or facilities for purposes of diagnosis or treatment
6 of the patient. This includes, in an emergency situation, the
7 communication of patient information by radio transmission or
8 other means between emergency medical personnel at the scene
9 of an emergency, or in an emergency medical transport vehicle,
10 and emergency medical personnel at a health facility licensed
11 pursuant to Chapter 2 (commencing with Section 1250) of Division
12 2 of the Health and Safety Code.

13 (2) The information may be disclosed to an insurer, employer,
14 health care service plan, hospital service plan, employee benefit
15 plan, governmental authority, contractor, or any other person or
16 entity responsible for paying for health care services rendered to
17 the patient, to the extent necessary to allow responsibility for
18 payment to be determined and payment to be made. If (A) the
19 patient is, by reason of a comatose or other disabling medical
20 condition, unable to consent to the disclosure of medical
21 information and (B) no other arrangements have been made to pay
22 for the health care services being rendered to the patient, the
23 information may be disclosed to a governmental authority to the
24 extent necessary to determine the patient's eligibility for, and to
25 obtain, payment under a governmental program for health care
26 services provided to the patient. The information may also be
27 disclosed to another provider of health care or health care service
28 plan as necessary to assist the other provider or health care service
29 plan in obtaining payment for health care services rendered by that
30 provider of health care or health care service plan to the patient.

31 (3) The information may be disclosed to any person or entity
32 that provides billing, claims management, medical data processing,
33 or other administrative services for providers of health care or
34 health care service plans or for any of the persons or entities
35 specified in paragraph (2). However, no information so disclosed
36 shall be further disclosed by the recipient in any way that would
37 be violative of this part.

38 (4) The information may be disclosed to organized committees
39 and agents of professional societies or of medical staffs of licensed
40 hospitals, licensed health care service plans, professional standards

1 review organizations, independent medical review organizations
2 and their selected reviewers, utilization and quality control peer
3 review organizations as established by Congress in Public Law
4 97-248 in 1982, contractors, or persons or organizations insuring,
5 responsible for, or defending professional liability that a provider
6 may incur, if the committees, agents, health care service plans,
7 organizations, reviewers, contractors, or persons are engaged in
8 reviewing the competence or qualifications of health care
9 professionals or in reviewing health care services with respect to
10 medical necessity, level of care, quality of care, or justification of
11 charges.

12 (5) The information in the possession of any provider of health
13 care or health care service plan may be reviewed by any private
14 or public body responsible for licensing or accrediting the provider
15 of health care or health care service plan. However, no
16 patient-identifying medical information may be removed from the
17 premises except as expressly permitted or required elsewhere by
18 law, nor shall that information be further disclosed by the recipient
19 in any way that would violate this part.

20 (6) The information may be disclosed to the county coroner in
21 the course of an investigation by the coroner's office when
22 requested for all purposes not included in paragraph (8) of
23 subdivision (b).

24 (7) The information may be disclosed to public agencies, clinical
25 investigators, including investigators conducting epidemiologic
26 studies, health care research organizations, and accredited public
27 or private nonprofit educational or health care institutions for bona
28 fide research purposes. However, no information so disclosed shall
29 be further disclosed by the recipient in any way that would disclose
30 the identity of any patient or be violative of this part.

31 (8) A provider of health care or health care service plan that has
32 created medical information as a result of employment-related
33 health care services to an employee conducted at the specific prior
34 written request and expense of the employer may disclose to the
35 employee's employer that part of the information that:

36 (A) Is relevant in a lawsuit, arbitration, grievance, or other claim
37 or challenge to which the employer and the employee are parties
38 and in which the patient has placed in issue his or her medical
39 history, mental or physical condition, or treatment, provided that

1 information may only be used or disclosed in connection with that
2 proceeding.

3 (B) Describes functional limitations of the patient that may
4 entitle the patient to leave from work for medical reasons or limit
5 the patient's fitness to perform his or her present employment,
6 provided that no statement of medical cause is included in the
7 information disclosed.

8 (9) Unless the provider of health care or health care service plan
9 is notified in writing of an agreement by the sponsor, insurer, or
10 administrator to the contrary, the information may be disclosed to
11 a sponsor, insurer, or administrator of a group or individual insured
12 or uninsured plan or policy that the patient seeks coverage by or
13 benefits from, if the information was created by the provider of
14 health care or health care service plan as the result of services
15 conducted at the specific prior written request and expense of the
16 sponsor, insurer, or administrator for the purpose of evaluating the
17 application for coverage or benefits.

18 (10) The information may be disclosed to a health care service
19 plan by providers of health care that contract with the health care
20 service plan and may be transferred among providers of health
21 care that contract with the health care service plan, for the purpose
22 of administering the health care service plan. Medical information
23 may not otherwise be disclosed by a health care service plan except
24 in accordance with the provisions of this part.

25 (11) Nothing in this part shall prevent the disclosure by a
26 provider of health care or a health care service plan to an insurance
27 institution, agent, or support organization, subject to Article 6.6
28 (commencing with Section 791) of Part 2 of Division 1 of the
29 Insurance Code, of medical information if the insurance institution,
30 agent, or support organization has complied with all requirements
31 for obtaining the information pursuant to Article 6.6 (commencing
32 with Section 791) of Part 2 of Division 1 of the Insurance Code.

33 (12) The information relevant to the patient's condition and care
34 and treatment provided may be disclosed to a probate court
35 investigator engaged in determining the need for an initial
36 conservatorship or continuation of an existent conservatorship, if
37 the patient is unable to give informed consent, or to a probate court
38 investigator, probation officer, or domestic relations investigator
39 engaged in determining the need for an initial guardianship or
40 continuation of an existent guardianship.

1 (13) The information may be disclosed to an organ procurement
2 organization or a tissue bank processing the tissue of a decedent
3 for transplantation into the body of another person, but only with
4 respect to the donating decedent, for the purpose of aiding the
5 transplant. For the purpose of this paragraph, the terms “tissue
6 bank” and “tissue” have the same meaning as defined in Section
7 1635 of the Health and Safety Code.

8 (14) The information may be disclosed when the disclosure is
9 otherwise specifically authorized by law, such as the voluntary
10 reporting, either directly or indirectly, to the federal Food and Drug
11 Administration of adverse events related to drug products or
12 medical device problems.

13 (15) Basic information, including the patient’s name, city of
14 residence, age, sex, and general condition, may be disclosed to a
15 state or federally recognized disaster relief organization for the
16 purpose of responding to disaster welfare inquiries.

17 (16) The information may be disclosed to a third party for
18 purposes of encoding, encrypting, or otherwise anonymizing data.
19 However, no information so disclosed shall be further disclosed
20 by the recipient in any way that would be violative of this part,
21 including the unauthorized manipulation of coded or encrypted
22 medical information that reveals individually identifiable medical
23 information.

24 (17) For purposes of disease management programs and services
25 as defined in Section 1399.901 of the Health and Safety Code,
26 information may be disclosed as follows: (A) to any entity
27 contracting with a health care service plan or the health care service
28 plan’s contractors to monitor or administer care of enrollees for a
29 covered benefit, provided that the disease management services
30 and care are authorized by a treating physician, or (B) to any
31 disease management organization, as defined in Section 1399.900
32 of the Health and Safety Code, that complies fully with the
33 physician authorization requirements of Section 1399.902 of the
34 Health and Safety Code, provided that the health care service plan
35 or its contractor provides or has provided a description of the
36 disease management services to a treating physician or to the health
37 care service plan’s or contractor’s network of physicians. Nothing
38 in this paragraph shall be construed to require physician
39 authorization for the care or treatment of the adherents of any
40 well-recognized church or religious denomination who depend

1 solely upon prayer or spiritual means for healing in the practice
2 of the religion of that church or denomination.

3 (18) The information may be disclosed, as permitted by state
4 and federal law or regulation, to a local health department for the
5 purpose of preventing or controlling disease, injury, or disability,
6 including, but not limited to, the reporting of disease, injury, vital
7 events such as birth or death, and the conduct of public health
8 surveillance, public health investigations, and public health
9 interventions, as authorized or required by state or federal law or
10 regulation.

11 (19) *The information may be disclosed when a psychotherapist,*
12 *as defined in Section 1010 of the Evidence Code, has reasonable*
13 *cause to believe that the patient is in such a mental or emotional*
14 *condition as to be dangerous to himself or herself or to the person*
15 *or property of another and that disclosure of the information is*
16 *necessary to prevent the threatened danger.*

17 (d) Except to the extent expressly authorized by the patient or
18 enrollee or subscriber or as provided by subdivisions (b) and (c),
19 no provider of health care, health care service plan, contractor, or
20 corporation and its subsidiaries and affiliates shall intentionally
21 share, sell, use for marketing, or otherwise use any medical
22 information for any purpose not necessary to provide health care
23 services to the patient.

24 (e) Except to the extent expressly authorized by the patient or
25 enrollee or subscriber or as provided by subdivisions (b) and (c),
26 no contractor or corporation and its subsidiaries and affiliates shall
27 further disclose medical information regarding a patient of the
28 provider of health care or an enrollee or subscriber of a health care
29 service plan or insurer or self-insured employer received under
30 this section to any person or entity that is not engaged in providing
31 direct health care services to the patient or his or her provider of
32 health care or health care service plan or insurer or self-insured
33 employer.

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AMENDED IN ASSEMBLY MAY 3, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1687

Introduced by Assembly Member Brownley

February 23, 2007

An act to amend Section 56.10 of the Civil Code, ~~and to amend Sections 369 and 739 of, and to add Section 5328.03 to, the Welfare and Institutions Code~~, relating to confidential information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1687, as amended, Brownley. Mental health and developmental services: confidential information.

(1) Existing law prohibits a provider of health care, a health care service plan, contractor, or corporation and its subsidiaries and affiliates from intentionally sharing, selling, or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, except as expressly authorized by the patient, enrollee, or subscriber, as specified, or as otherwise required or authorized by law. Existing law also permits that medical information to be disclosed to providers of health care, health care service plans, contractors, or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. *Existing law provides that a violation of these provisions that results in economic loss or personal injury to a patient is punishable as a misdemeanor. Existing federal law defines "covered entity" for purposes of the federal Health Insurance Portability and Accountability Act.*

~~Existing law provides that whenever a juvenile has been taken into temporary custody as a ward or a dependent child of the court pursuant to specified provisions, and if he or she is in need of medical, surgical, dental, or other remedial care, the probation officer may authorize the performance of that care, as specified.~~

This bill would provide that these provisions apply to a psychotherapist, as defined. By expanding the definition of a crime, the bill would impose a state-mandated local program. The bill would also permit a psychotherapist to use or disclose protected health information if the covered entity, in good faith, believes the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public and if other specified requirements apply. The bill would also provide that for purposes of these provisions, treatment shall include the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination of management of health care by a health care provider with a third party, consultation between health care providers relating to a patient, or the referral of a patient for health care for one health care provider to another. The bill would provide that for purposes of these provisions, a county social worker, probation officer, or custodial caregiver shall be considered a third party that coordinates and manages health care of children, as specified.

(2) 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.

~~(2) Under the Lanterman-Petris-Short Act, all information and records obtained in the course of providing services relating to individuals with developmental disabilities and individuals with mental illness are confidential, except under prescribed conditions, including, but not limited to, the release of information and records to governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families, and the courts as necessary to the administration of justice.~~

~~This bill would require, if a service provider determines that the disclosure of information and records of a child in the custodial care of the county is necessary to prevent serious harm to that child or others, information and records relating to the diagnosis, treatment, participation~~

~~in counseling, and other information obtained in the course of providing services to that child to be disclosed to a county social worker, probation officer, or custodial caregiver. The bill would also provide that the disclosure of information and records pursuant to these provisions is not intended to limit the disclosure of information and records subject to a valid authorization or when disclosure is required by law, or prohibit an existing disclosure of information and records by a claim of privileged or confidential information when a court of competent jurisdiction orders a mental health examination or treatment.~~

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

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

1 SECTION 1. (a) *The Legislature finds and declares all of the*
 2 *following:*
 3 (1) *The State of California is responsible for the health care*
 4 *needs of children and youth who have been removed from their*
 5 *homes due to abuse, neglect, or delinquency, and for ensuring that*
 6 *their health and mental health needs are met. Access to health and*
 7 *mental health records is essential for ensuring that health and*
 8 *mental health needs of foster children and youth are being met.*
 9 (2) *A lack of clarity about who may be authorized to share health*
 10 *and mental health records with caregivers of children and youth*
 11 *in the state’s care often results in inadequate health care*
 12 *information being available to caregivers, which jeopardizes the*
 13 *health of the children and youth in the state’s care.*
 14 (b) *It is the intent of the Legislature to improve the sharing of*
 15 *health and mental health information concerning children and*
 16 *youth in the state’s care by eliminating barriers caused by a lack*
 17 *of clarity in the law regarding who may be authorized to share*
 18 *health and mental health information. It is further the intent of the*
 19 *Legislature not to expand existing state law and to clarify that*
 20 *existing state confidentiality of medical records law and the federal*
 21 *Health Insurance Portability and Accountability Act (HIPAA)*
 22 *authorizes psychotherapists to provide health and mental health*
 23 *information to caregivers of children and youth in foster care to*
 24 *facilitate providing health and mental health care that meets their*
 25 *needs.*

1 SECTION 1.

2 SEC. 2. Section 56.10 of the Civil Code is amended to read:

3 56.10. (a) A provider of health care, *psychotherapist defined*
4 *in Section 1010 of the Evidence Code*, health care service plan, or
5 contractor shall not disclose medical information regarding a
6 patient of the provider of health care or an enrollee or subscriber
7 of a health care service plan without first obtaining an
8 authorization, except as provided in subdivision (b) or (c).9 (b) A provider of health care, *psychotherapist defined in Section*
10 *1010 of the Evidence Code*, a health care service plan, or a
11 contractor shall disclose medical information if the disclosure is
12 compelled by any of the following:

13 (1) By a court pursuant to an order of that court.

14 (2) By a board, commission, or administrative agency for
15 purposes of adjudication pursuant to its lawful authority.16 (3) By a party to a proceeding before a court or administrative
17 agency pursuant to a subpoena, subpoena duces tecum, notice to
18 appear served pursuant to Section 1987 of the Code of Civil
19 Procedure, or any provision authorizing discovery in a proceeding
20 before a court or administrative agency.21 (4) By a board, commission, or administrative agency pursuant
22 to an investigative subpoena issued under Article 2 (commencing
23 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title
24 2 of the Government Code.25 (5) By an arbitrator or arbitration panel, when arbitration is
26 lawfully requested by either party, pursuant to a subpoena duces
27 tecum issued under Section 1282.6 of the Code of Civil Procedure,
28 or any other provision authorizing discovery in a proceeding before
29 an arbitrator or arbitration panel.30 (6) By a search warrant lawfully issued to a governmental law
31 enforcement agency.32 (7) By the patient or the patient's representative pursuant to
33 Chapter 1 (commencing with Section 123100) of Part 1 of Division
34 106 of the Health and Safety Code.35 (8) By a coroner, when requested in the course of an
36 investigation by the coroner's office for the purpose of identifying
37 the decedent or locating next of kin, or when investigating deaths
38 that may involve public health concerns, organ or tissue donation,
39 child abuse, elder abuse, suicides, poisonings, accidents, sudden
40 infant deaths, suspicious deaths, unknown deaths, or criminal

1 deaths, or when otherwise authorized by the decedent's
2 representative. Medical information requested by the coroner under
3 this paragraph shall be limited to information regarding the patient
4 who is the decedent and who is the subject of the investigation and
5 shall be disclosed to the coroner without delay upon request.

6 (9) When otherwise specifically required by law.

7 (c) A provider of health care, *psychotherapist as defined in*
8 *Section 1010 of the Evidence Code*, or a health care service plan
9 may disclose medical information as follows:

10 (1) The information may be disclosed to providers of health
11 care, health care service plans, contractors, or other health care
12 professionals or facilities for purposes of diagnosis or treatment
13 of the patient. This includes, in an emergency situation, the
14 communication of patient information by radio transmission or
15 other means between emergency medical personnel at the scene
16 of an emergency, or in an emergency medical transport vehicle,
17 and emergency medical personnel at a health facility licensed
18 pursuant to Chapter 2 (commencing with Section 1250) of Division
19 2 of the Health and Safety Code. Treatment includes the provision,
20 coordination, or management of health care and related services
21 by one or more health care providers, including the coordination
22 or management of health care by a health care provider with a third
23 party, consultation between health care providers relating to a
24 patient, or the referral of a patient for health care from one health
25 care provider to another.

26 (2) The information may be disclosed to an insurer, employer,
27 health care service plan, hospital service plan, employee benefit
28 plan, governmental authority, contractor, or any other person or
29 entity responsible for paying for health care services rendered to
30 the patient, to the extent necessary to allow responsibility for
31 payment to be determined and payment to be made. If (A) the
32 patient is, by reason of a comatose or other disabling medical
33 condition, unable to consent to the disclosure of medical
34 information and (B) no other arrangements have been made to pay
35 for the health care services being rendered to the patient, the
36 information may be disclosed to a governmental authority to the
37 extent necessary to determine the patient's eligibility for, and to
38 obtain, payment under a governmental program for health care
39 services provided to the patient. The information may also be
40 disclosed to another provider of health care or health care service

1 plan as necessary to assist the other provider or health care service
2 plan in obtaining payment for health care services rendered by that
3 provider of health care or health care service plan to the patient.

4 (3) The information may be disclosed to a person or entity that
5 provides billing, claims management, medical data processing, or
6 other administrative services for providers of health care or health
7 care service plans or for any of the persons or entities specified in
8 paragraph (2). Information disclosed pursuant to this paragraph
9 shall not be further disclosed by the recipient in any way that would
10 violate this part.

11 (4) The information may be disclosed to organized committees
12 and agents of professional societies or of medical staffs of licensed
13 hospitals, licensed health care service plans, professional standards
14 review organizations, independent medical review organizations
15 and their selected reviewers, utilization and quality control peer
16 review organizations as established by Congress in Public Law
17 97-248 in 1982, contractors, or persons or organizations insuring,
18 responsible for, or defending professional liability that a provider
19 may incur, if the committees, agents, health care service plans,
20 organizations, reviewers, contractors, or persons are engaged in
21 reviewing the competence or qualifications of health care
22 professionals or in reviewing health care services with respect to
23 medical necessity, level of care, quality of care, or justification of
24 charges.

25 (5) The information in the possession of a provider of health
26 care or health care service plan may be reviewed by a private or
27 public body responsible for licensing or accrediting the provider
28 of health care or health care service plan. Patient-identifying
29 medical information may not be removed from the premises except
30 as expressly permitted or required elsewhere by law, and that
31 information shall not be further disclosed by the recipient in any
32 way that would violate this part.

33 (6) The information may be disclosed to the county coroner in
34 the course of an investigation by the coroner's office when
35 requested for all purposes not included in paragraph (8) of
36 subdivision (b).

37 (7) The information may be disclosed to public agencies, clinical
38 investigators, including investigators conducting epidemiologic
39 studies, health care research organizations, and accredited public
40 or private nonprofit educational or health care institutions for bona

1 fide research purposes. Information disclosed pursuant to this
2 paragraph shall not be further disclosed by the recipient in any
3 way that would disclose the identity of a patient or violate this
4 part.

5 (8) A provider of health care or health care service plan that has
6 created medical information as a result of employment-related
7 health care services to an employee conducted at the specific prior
8 written request and expense of the employer may disclose to the
9 employee's employer that part of the information that:

10 (A) Is relevant in a lawsuit, arbitration, grievance, or other claim
11 or challenge to which the employer and the employee are parties
12 and in which the patient has placed in issue his or her medical
13 history, mental or physical condition, or treatment, provided that
14 information may only be used or disclosed in connection with that
15 proceeding.

16 (B) Describes functional limitations of the patient that may
17 entitle the patient to leave from work for medical reasons or limit
18 the patient's fitness to perform his or her present employment,
19 provided that a statement of medical cause is not included in the
20 information disclosed.

21 (9) Unless the provider of health care or health care service plan
22 is notified in writing of an agreement by the sponsor, insurer, or
23 administrator to the contrary, the information may be disclosed to
24 a sponsor, insurer, or administrator of a group or individual insured
25 or uninsured plan or policy that the patient seeks coverage by or
26 benefits from, if the information was created by the provider of
27 health care or health care service plan as the result of services
28 conducted at the specific prior written request and expense of the
29 sponsor, insurer, or administrator for the purpose of evaluating the
30 application for coverage or benefits.

31 (10) The information may be disclosed to a health care service
32 plan by providers of health care that contract with the health care
33 service plan and may be transferred among providers of health
34 care that contract with the health care service plan, for the purpose
35 of administering the health care service plan. Medical information
36 may not otherwise be disclosed by a health care service plan except
37 in accordance with the provisions of this part.

38 (11) This part shall not prevent the disclosure by a provider of
39 health care or a health care service plan to an insurance institution,
40 agent, or support organization, subject to Article 6.6 (commencing

1 with Section 791) of Part 2 of Division 1 of the Insurance Code,
2 of medical information if the insurance institution, agent, or support
3 organization has complied with all requirements for obtaining the
4 information pursuant to Article 6.6 (commencing with Section
5 791) of Part 2 of Division 1 of the Insurance Code.

6 (12) The information relevant to the patient’s condition and care
7 and treatment provided may be disclosed to a probate court
8 investigator engaged in determining the need for an initial
9 conservatorship or continuation of an existent conservatorship, if
10 the patient is unable to give informed consent, or to a probate court
11 investigator, probation officer, or domestic relations investigator
12 engaged in determining the need for an initial guardianship or
13 continuation of an existent guardianship.

14 (13) The information may be disclosed to an organ procurement
15 organization or a tissue bank processing the tissue of a decedent
16 for transplantation into the body of another person, but only with
17 respect to the donating decedent, for the purpose of aiding the
18 transplant. For the purpose of this paragraph, the terms “tissue
19 bank” and “tissue” have the same meaning as defined in Section
20 1635 of the Health and Safety Code.

21 (14) The information may be disclosed when the disclosure is
22 otherwise specifically authorized by law, including, but not limited
23 to, the voluntary reporting, either directly or indirectly, to the
24 federal Food and Drug Administration of adverse events related
25 to drug products or medical device problems.

26 (15) Basic information, including the patient’s name, city of
27 residence, age, sex, and general condition, may be disclosed to a
28 state or federally recognized disaster relief organization for the
29 purpose of responding to disaster welfare inquiries.

30 (16) The information may be disclosed to a third party for
31 purposes of encoding, encrypting, or otherwise anonymizing data.
32 Information disclosed pursuant to this paragraph shall not be further
33 disclosed by the recipient in any way that would violate this part,
34 including the unauthorized manipulation of coded or encrypted
35 medical information that reveals individually identifiable medical
36 information.

37 (17) For purposes of disease management programs and services
38 as defined in Section 1399.901 of the Health and Safety Code,
39 information may be disclosed as follows: (A) to an entity
40 contracting with a health care service plan or the health care service

1 plan’s contractors to monitor or administer care of enrollees for a
2 covered benefit, if the disease management services and care are
3 authorized by a treating physician, or (B) to a disease management
4 organization, as defined in Section 1399.900 of the Health and
5 Safety Code, that complies fully with the physician authorization
6 requirements of Section 1399.902 of the Health and Safety Code,
7 if the health care service plan or its contractor provides or has
8 provided a description of the disease management services to a
9 treating physician or to the health care service plan’s or contractor’s
10 network of physicians. ~~This~~ *Nothing in this* paragraph shall be
11 construed to require physician authorization for the care or
12 treatment of the adherents of a well-recognized church or religious
13 denomination who depend solely upon prayer or spiritual means
14 for healing in the practice of the religion of that church or
15 denomination.

16 (18) The information may be disclosed, as permitted by state
17 and federal law or regulation, to a local health department for the
18 purpose of preventing or controlling disease, injury, or disability,
19 including, but not limited to, the reporting of disease, injury, vital
20 events, including, but not limited to, birth or death, and the conduct
21 of public health surveillance, public health investigations, and
22 public health interventions, as authorized or required by state or
23 federal law or regulation.

24 *(d) A covered entity as defined in Section 160.103 of Title 45*
25 *of the Code of Federal Regulations who is a psychotherapist as*
26 *defined in Section 1010 of the Evidence Code may, consistent with*
27 *applicable law and standards of ethical conduct, use or disclose*
28 *protected health information if the covered entity, in good faith,*
29 *believes the use or disclosure is necessary to prevent or lessen a*
30 *serious and imminent threat to the health or safety of a person or*
31 *the public and either of the following apply:*

32 *(1) The use or disclosure is to a person reasonably able to*
33 *prevent or lessen that threat, including, but not limited to, the*
34 *target of the threat.*

35 *(2) The use or disclosure is necessary for law enforcement*
36 *authorities to identify or apprehend an individual when either of*
37 *the following apply:*

38 *(A) The covered entity reasonably believes that because of a*
39 *statement by an individual who admits participating in a violent*

1 *crime, the individual may have caused serious physical harm to*
2 *the victim.*

3 *(B) It appears from all the circumstances that the individual*
4 *has escaped from a correctional institution or from lawful custody*
5 *as those terms are defined in Section 164.501 of Title 45 of the*
6 *Code of Federal Regulations.*

7 ~~(d)~~

8 *(e) Except to the extent expressly authorized by the patient or*
9 *enrollee or subscriber or as provided by subdivisions (b) and (c),*
10 *a provider of health care, health care service plan, contractor, or*
11 *corporation and its subsidiaries and affiliates shall not intentionally*
12 *share, sell, use for marketing, or otherwise use any medical*
13 *information for any purpose not necessary to provide health care*
14 *services to the patient.*

15 ~~(e)~~

16 *(f) Except to the extent expressly authorized by the patient or*
17 *enrollee or subscriber or as provided by subdivisions (b) and (c),*
18 *a contractor or corporation and its subsidiaries and affiliates shall*
19 *further disclose medical information regarding a patient of the*
20 *provider of health care or an enrollee or subscriber of a health care*
21 *service plan or insurer or self-insured employer received under*
22 *this section to a person or entity that is not engaged in providing*
23 *direct health care services to the patient or his or her provider of*
24 *health care or health care service plan or insurer or self-insured*
25 *employer.*

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

35 ~~SEC. 2. Section 369 of the Welfare and Institutions Code is~~
36 ~~amended to read:~~

37 ~~369. (a) Whenever a person is taken into temporary custody~~
38 ~~under Article 7 (commencing with Section 305) and is in need of~~
39 ~~medical, surgical, dental, or other remedial care, the social worker~~
40 ~~may, upon the recommendation of the attending physician and~~

1 surgeon or, if the person needs dental care and there is an attending
2 dentist, the attending dentist, authorize the performance of the
3 medical, surgical, dental, or other remedial care. The social worker
4 shall notify the parent, guardian, or person standing in loco parentis
5 of the person, if any, of the care found to be needed before that
6 care is provided, and if the parent, guardian, or person standing in
7 loco parentis objects, that care shall be given only upon order of
8 the court in the exercise of its discretion.

9 (b) Whenever it appears to the juvenile court that any person
10 concerning whom a petition has been filed with the court is in need
11 of medical, surgical, dental, or other remedial care, and that there
12 is no parent, guardian, or person standing in loco parentis capable
13 of authorizing or willing to authorize the remedial care or treatment
14 for that person, the court, upon the written recommendation of a
15 licensed physician and surgeon or, if the person needs dental care,
16 a licensed dentist, and after due notice to the parent, guardian, or
17 person standing in loco parentis, if any, may make an order
18 authorizing the performance of the necessary medical, surgical,
19 dental, or other remedial care for that person.

20 (c) Whenever a dependent child of the juvenile court is placed
21 by order of the court within the care and custody or under the
22 supervision of a social worker of the county in which the dependent
23 child resides and it appears to the court that there is no parent,
24 guardian, or person standing in loco parentis capable of authorizing
25 or willing to authorize medical, surgical, dental, or other remedial
26 care or treatment for the dependent child, the court may, after due
27 notice to the parent, guardian, or person standing in loco parentis,
28 if any, order that the social worker may authorize the medical,
29 surgical, dental, or other remedial care for the dependent child, by
30 licensed practitioners, as may from time to time appear necessary.

31 (d) Whenever it appears that a child otherwise within subdivision
32 (a), (b), or (c) requires immediate emergency medical, surgical,
33 or other remedial care in an emergency situation, that care may be
34 provided by a licensed physician and surgeon or, if the child needs
35 dental care in an emergency situation, by a licensed dentist, without
36 a court order and upon authorization of a social worker. The social
37 worker shall make reasonable efforts to obtain the consent of, or
38 to notify, the parent, guardian, or person standing in loco parentis
39 prior to authorizing emergency medical, surgical, dental, or other
40 remedial care. "Emergency situation," for the purposes of this

1 subdivision means a child requires immediate treatment for the
2 alleviation of severe pain or an immediate diagnosis and treatment
3 of an unforeseeable medical, surgical, dental, or other remedial
4 condition or contagious disease which if not immediately diagnosed
5 and treated, would lead to serious disability or death.

6 (e) ~~In any case in which the court orders the performance of~~
7 ~~any medical, surgical, dental, or other remedial care pursuant to~~
8 ~~this section, the court may also make an order authorizing the~~
9 ~~release of information concerning that care to social workers,~~
10 ~~parole officers, or any other qualified individuals or agencies caring~~
11 ~~for or acting in the interest and welfare of the child under order,~~
12 ~~commitment, or approval of the court. This section is not intended~~
13 ~~to require a person or agency authorized to receive information~~
14 ~~pursuant to any other provision of law to obtain an order from the~~
15 ~~court.~~

16 (f) ~~This section shall not be construed as limiting the right of a~~
17 ~~parent, guardian, or person standing in loco parentis, who has not~~
18 ~~been deprived of the custody or control of the child by order of~~
19 ~~the court, in providing any medical, surgical, dental, or other~~
20 ~~remedial treatment recognized or permitted under the laws of this~~
21 ~~state.~~

22 (g) ~~The parent of a person described in this section may~~
23 ~~authorize the performance of medical, surgical, dental, or other~~
24 ~~remedial care provided for in this section notwithstanding his or~~
25 ~~her age or marital status. In nonemergency situations the parent~~
26 ~~authorizing the care shall notify the other parent prior to the~~
27 ~~administration of that care.~~

28 (h) ~~For purposes of this section, a county social worker, a~~
29 ~~probation officer, or a custodial caregiver is considered a third~~
30 ~~party that coordinates and manages the health care of children~~
31 ~~described by subdivisions (a), (b), and (c), inclusive, and as~~
32 ~~described in Section 56.10 of the Civil Code and Section 164.501~~
33 ~~of Title 45 of the Code of Federal Regulations.~~

34 SEC. 3. ~~Section 739 of the Welfare and Institutions Code is~~
35 ~~amended to read:~~

36 739. ~~(a) Whenever a person is taken into temporary custody~~
37 ~~under Article 15 (commencing with Section 625) and is in need~~
38 ~~of medical, surgical, dental, or other remedial care, the probation~~
39 ~~officer may, upon the recommendation of the attending physician~~
40 ~~and surgeon or, if the person needs dental care and there is an~~

1 attending dentist, the attending dentist, authorize the performance
2 of that medical, surgical, dental, or other remedial care. The
3 probation officer shall notify the parent, guardian, or person
4 standing in loco parentis of the person, if any, of the care found
5 to be needed before the care is provided, and if the parent, guardian,
6 or person standing in loco parentis objects, the care shall be given
7 only upon order of the court in the exercise of its discretion.

8 (b) Whenever it appears to the juvenile court that a person
9 concerning whom a petition has been filed with the court is in need
10 of medical, surgical, dental, or other remedial care, and that there
11 is no parent, guardian, or person standing in loco parentis capable
12 of authorizing or willing to authorize the remedial care or treatment
13 for that person, the court, upon the written recommendation of a
14 licensed physician and surgeon or, if the person needs dental care,
15 a licensed dentist, and after due notice to the parent, guardian, or
16 person standing in loco parentis, if any, may make an order
17 authorizing the performance of the necessary medical, surgical,
18 dental, or other remedial care for that person.

19 (c) Whenever a ward of the juvenile court is placed by order of
20 the court within the care and custody or under the supervision of
21 the probation officer of the county in which the ward resides and
22 it appears to the court that there is no parent, guardian, or person
23 standing in loco parentis capable of authorizing or willing to
24 authorize medical, surgical, dental, or other remedial care or
25 treatment for the ward, the court may, after due notice to the parent,
26 guardian, or person standing in loco parentis, if any, order that the
27 probation officer may authorize the medical, surgical, dental, or
28 other remedial care for the ward by licensed practitioners, as may
29 from time to time appear necessary.

30 (d) Whenever it appears that a minor otherwise within
31 subdivision (a), (b), or (c) requires immediate emergency medical,
32 surgical, or other remedial care in an emergency situation, that
33 care may be provided by a licensed physician and surgeon or, if
34 the minor needs dental care in an emergency situation, by a licensed
35 dentist, without a court order and upon authorization of a probation
36 officer. If the minor needs foot or ankle care within the scope of
37 practice of podiatric medicine, as defined in Section 2472 of the
38 Business and Professions Code, a probation officer may authorize
39 the care to be provided by a podiatrist after obtaining the advice
40 and concurrence of a physician and surgeon. The probation officer

1 shall make reasonable efforts to obtain the consent of, or to notify,
 2 the parent, guardian, or person standing in loco parentis prior to
 3 authorizing emergency medical, surgical, dental, or other remedial
 4 care. “Emergency situation,” for the purposes of this subdivision
 5 means a minor requires immediate treatment for the alleviation of
 6 severe pain or an immediate diagnosis and treatment of an
 7 unforeseeable medical, surgical, dental, or other remedial condition
 8 or contagious disease which if not immediately diagnosed and
 9 treated, would lead to serious disability or death.

10 (e) In any case in which the court orders the performance of
 11 any medical, surgical, dental, or other remedial care pursuant to
 12 this section, the court may also make an order authorizing the
 13 release of information concerning that care to probation officers,
 14 parole officers, or any other qualified individuals or agencies caring
 15 for or acting in the interest and welfare of the minor under order,
 16 commitment, or approval of the court. This section is not intended
 17 to require a person or agency authorized to receive information
 18 pursuant to any other provision of law to obtain an order from the
 19 court.

20 (f) This section shall not be construed as limiting the right of a
 21 parent, guardian, or person standing in loco parentis, who has not
 22 been deprived of the custody or control of the minor by order of
 23 the court, in providing any medical, surgical, dental, or other
 24 remedial treatment recognized or permitted under the laws of this
 25 state.

26 (g) The parent of a person described in this section may
 27 authorize the performance of medical, surgical, dental, or other
 28 remedial care provided for in this section notwithstanding his or
 29 her age or marital status. In nonemergency situations the parent
 30 authorizing the care shall notify the other parent prior to the
 31 administration of the care.

32 (h) For purposes of this section, a county social worker, a
 33 probation officer, or a custodial caregiver is considered a third
 34 party that coordinates and manages the health care of children
 35 described by subdivisions (a), (b), and (c), inclusive, and as
 36 described in Section 56.10 of the Civil Code and Section 164.501
 37 of Title 45 of the Code of Federal Regulations.

38 SEC. 4. Section 5328.03 is added to the Welfare and
 39 Institutions Code, to read:

1 5328.03.—(a) Notwithstanding Section 5328, if a service
2 provider determines that the disclosure of information and records
3 of a child in the custodial care of the county is necessary to prevent
4 serious harm to that child or others, information and records
5 relating to the diagnosis, treatment, participation in counseling,
6 and other information obtained in the course of providing services
7 to that child shall be disclosed to a county social worker, probation
8 officer, or custodial caregiver.

9 (b) The disclosure of information and records pursuant to this
10 section is not intended to do any of the following:

11 (1) Limit the disclosure of information and records subject to
12 a valid authorization or when disclosure is required by law.

13 (2) Prohibit an existing disclosure of information and records
14 by a claim of privileged or confidential information when a court
15 of competent jurisdiction orders a mental health examination or
16 treatment.

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AMENDED IN SENATE MARCH 27, 2007

SENATE BILL

No. 823

Introduced by Senator Perata

February 23, 2007

An act to amend Sections 94808, 94809, 94854, and 94952 of, and to amend and renumber Section 94723 of, add Chapter 7 (commencing with Section 94700) to Part 59 of Division 10 of Title 3 of the Education Code, relating to private postsecondary education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 823, as amended, Perata. Private postsecondary education: *California Postsecondary Education Act of 2007*.

(1) The Private Postsecondary and Vocational Education Reform Act of 1989 generally sets minimum standards of instructional quality, ethical and business practices, health and safety, and fiscal responsibility for private postsecondary and vocational educational institutions, as defined. The act establishes in the Department of Consumer Affairs the Bureau for Private Postsecondary and Vocational Education, which, among other things, is required to review and investigate all institutions, programs, and courses of instruction approved under the act.

The act establishes the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund. The act specifies that certain violations of its provisions are subject to civil penalties and that certain willful violations of the act are punishable as crimes. ~~The act includes provisions defining numerous terms for the purposes of the act.~~

~~This bill would recast and revise the provision that defines "correspondence school" or "home study school" for the purposes of~~

the act, and would replace those terms with “distance learning school,” as defined.

(2) The act requires each institution that is approved to operate under its provisions to report to the bureau specified information about its educational programs.

This bill would require these institutions to submit these reports in specified electronic formats. The bill would further require these reports to contain additional specified information relating to students attending the institutions.

(3) The act requires certain institutions approved to operate under its provisions to submit specified information regarding the placement of their students in employment.

This bill would revise the definition of “employment” for these purposes to specify that certain hourly minimums in that definition apply to full-time or part-time employment with a single employer.

(4) The act authorizes the Attorney General, or any district attorney or city attorney, to make investigations to carry out its provisions.

This bill would authorize these officials to obtain from the bureau, without charge, any documents related to an institution that may be useful to an investigation of that institution.

(5) A provision of the act provides for it to become inoperative on July 1, 2007, and provides for its repeal on January 1, 2008.

The bill would declare that it would not become operative unless and until another statute amending this provision to change the date of the repeal of the Private Postsecondary and Vocational Education Reform Act of 1989 to a date that is after January 1, 2008, is chaptered and becomes operative.

This bill would recast, revise, and reenact the provisions of the Private Postsecondary and Vocational Education Reform Act of 1989 as the California Private Postsecondary Education Act of 2007. The bill would establish the Board for Private Postsecondary Education in the Department of Consumer Affairs, and would provide that the board would succeed to the duties assigned to the bureau under the 1989 act.

The bill would continue the existence of the Private Postsecondary and Vocational Education Administration Fund and the continuously appropriated Student Tuition Recovery Fund, thereby making an appropriation. Certain violations of the new act would be punishable as crimes, thereby establishing a state-mandated local program.

(2) *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.

(3) The bill would not become operative unless and until A.B. 1525 is chaptered and becomes operative.

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

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

1 SECTION 1. *It is the intent of the Legislature that the most*
2 *qualified and experienced staff continue working in the program*
3 *to regulate under the California Private Postsecondary Education*
4 *Act of 2007, and that, in accordance with Section 19050.9 of the*
5 *Government Code, staff currently working in a regulatory capacity*
6 *with regard to those institutions subject to Chapter 7 (commencing*
7 *with Section 94700) of Part 59 of Division 10 of the Education*
8 *Code, as of June 30, 2007, should continue working to administer*
9 *that act.*

10 SEC. 2. *Chapter 7 (commencing with Section 94700) is added*
11 *to Part 59 of Division 10 of Title 3 of the Education Code, to read:*

12
13 CHAPTER 7. PRIVATE POSTSECONDARY INSTITUTIONS

14
15 Article 1. General Provisions

16
17 94700. *This chapter shall be known, and may be cited, as the*
18 *California Private Postsecondary Education Act of 2007.*

19 94701. *The Legislature finds and declares all of the following:*

20 (a) *The fundamental problems with the Private Postsecondary*
21 *and Vocational Education Program have been studied extensively*
22 *and are well documented.*

23 (b) *It is the intent of the Legislature to establish a system of*
24 *governance that addresses the problems that have led to mediocre*
25 *educational services for California students by a substandard*
26 *bureaucratic scheme.*

27 (c) *This chapter is intended to provide for full protection of*
28 *students and a quality education through a transparent,*
29 *accountable, and streamlined regulatory process.*

1 (d) *Implementation of this chapter should promote an effective*
2 *integration of private postsecondary education into all aspects of*
3 *California's educational system and foster and improve the*
4 *educational programs and services of these institutions while*
5 *protecting the citizens of the state from fraudulent or substandard*
6 *operations.*

7 (e) *It is the intent of the Legislature to recognize the diversity*
8 *of California's private postsecondary educational enterprise by*
9 *establishing standards and procedures designed to foster the*
10 *development of high quality, innovative educational programs in*
11 *emerging new fields of study, and restore the integrity of the*
12 *education delivered via the private postsecondary industry.*

13 (f) *It is the further intent of the Legislature to provide for the*
14 *enhanced protection, education, and welfare of citizens of*
15 *California, its postsecondary educational institutions, and its*
16 *students by more effectively providing for all of the following:*

17 (1) *Ensuring minimum standards of instructional quality and*
18 *institutional stability for all students in all types of institutions,*
19 *and thereby encouraging the recognition by public and private*
20 *institutions of completed coursework and degrees issued by private*
21 *institutions, to the end that students will be provided equal*
22 *opportunities for equal accomplishment and ability through*
23 *articulation.*

24 (2) *Establishing minimum standards concerning the quality of*
25 *education, ethical and business practices, health and safety, and*
26 *fiscal responsibility to provide protection against substandard,*
27 *transient, unethical, deceptive, or fraudulent institutions and*
28 *practices.*

29 (3) *Prohibiting the granting of false or misleading educational*
30 *credentials.*

31 (4) *Recognizing the importance of providing adequate funding*
32 *through application and renewal fees and federal funding for the*
33 *veterans' approval process to support the state's activities in*
34 *implementing this chapter.*

35 (5) *Protecting the consumer and students against fraud,*
36 *misrepresentation, or other practices that may lead to an improper*
37 *loss of funds paid for educational costs, whether financed through*
38 *personal resources or state and federal student financial aid.*

39 (6) *Establishing a path for the development of institutions*
40 *offering fields of study or methods of instruction and innovative*

1 *educational delivery systems not previously recognized in order*
2 *to encourage them to become fully approved institutions.*

3 *(7) Recognizing and encouraging quality nongovernmental*
4 *accreditation, while not ceding to that or any other*
5 *nongovernmental process the responsibility for state oversight for*
6 *purposes of approval, if the accreditation process fails either to*
7 *protect minimum standards of quality or to acknowledge legitimate*
8 *innovative methods in postsecondary education.*

9 *(8) Establishing an administrative agency that is staffed by*
10 *individuals who are knowledgeable about private postsecondary*
11 *education, the norms, values, and standards related to higher*
12 *education in general, and is charged with the responsibility of*
13 *developing policies and procedures for the oversight and approval*
14 *of private postsecondary education, including the responsibility*
15 *for managing a broadly construed policy and planning process*
16 *that seeks to improve state accountability for private postsecondary*
17 *education. This new body should provide the leadership, planning,*
18 *coordination, and oversight needed to maintain and develop a*
19 *strong private sector in this community.*

20

21

Article 2. Definitions

22

23 *94710. The definitions set forth in this article govern the*
24 *construction of this chapter, unless the context requires otherwise.*

25 *94711. "Academic year" generally means a period including*
26 *a minimum of 30 weeks of instruction, beginning in the fall term*
27 *of a given year and ending at the end of the summer term of the*
28 *succeeding year. Some private postsecondary institutions may*
29 *adopt a different definition (that is, calendar year) for their*
30 *academic term, to accommodate unique or nontraditional*
31 *conditions such as continuous enrollment or shorter- or*
32 *longer-term sessions.*

33 *94712. "Accredited" means that an institution has been*
34 *recognized or approved as meeting the standards established by*
35 *an accrediting agency recognized by the United States Department*
36 *of Education, or the Committee of Bar Examiners or for the State*
37 *of California. It does not include those institutions that have*
38 *applied for accreditation, or are identified by accrediting*
39 *associations as candidates for accreditation or have initial*
40 *accreditation.*

1 94713. “Agent for service of process” means an individual
2 who has consented to act on behalf of the institution’s ownership
3 to receive administrative and judicial notices and pleadings at his
4 or her California address.

5 94714. “Annual report” means the reports required to be filed
6 pursuant to Section 94802.

7 94715. “Applicant” means a person or entity that has submitted
8 an application but whose evaluation has not been completed by
9 the board. An applicant shall not enroll students or offer
10 educational services until the board has made a determination
11 regarding the application.

12 94716. An “approval” means a written document issued by
13 the board authorizing a business entity or an institution to engage
14 in the recruitment of and advertisement to students for enrollment
15 in private postsecondary education institutions approved under
16 this chapter.

17 94717. “Approval” or “approval to operate” means that the
18 board has determined and certified that an institution meets
19 minimum standards established by the board for integrity, financial
20 stability, and educational quality, including the offering of bona
21 fide instruction by qualified faculty and the appropriate assessment
22 of students’ achievement before, during, and at the end of its
23 program.

24 94718. “Associate of Occupational Studies” or “Associate of
25 Applied Science” designated by terms including, but not
26 necessarily limited to, AOS (Associate Occupational Studies) or
27 AAS (Associate Applied Science) means an associate degree that
28 may be awarded to students who complete an occupational
29 program that provides preparation for employment in an
30 occupational field.

31 94719. “Avocational education” means education offered only
32 for purposes of personal entertainment, personal pleasure or
33 enjoyment such as a hobby. Education that directly leads to an
34 objective other than personal entertainment, personal pleasure or
35 enjoyment is not “education solely avocational in nature.”

36 94720. “Board” means the Board for Private Postsecondary
37 and Vocational Education established, pursuant to Section 94780,
38 in the Department of Consumer Affairs.

39 94721. “Branch” means a site other than the main location
40 or a satellite. Only educational services that are approved at the

1 *main location shall be offered at the satellite. The name of the*
2 *“branch” location shall be identical to that of the “main” location*
3 *approved by the board.*

4 94722. *“Calendar year” means the consecutive 12-month*
5 *period beginning on January 1 and ending on December 31.*

6 94723. *“Career field” means either of the following:*

7 (a) *A field for or pursuit of consecutive progressive achievement*
8 *especially in public, professional, or business life.*

9 (b) *A profession for which one trains and which is undertaken*
10 *as a permanent calling.*

11 94724. *“Certificate” means a formal academic award that*
12 *represents, purports to constitute, or may generally be taken to*
13 *signify, completion of a course of instruction for which college or*
14 *university-level academic credit is given, but which is shorter or*
15 *more limited than that leading to a degree. A “certificate” may*
16 *be at the undergraduate or graduate level.*

17 94725. *“Change of location” means a move of up to 25 miles*
18 *of the location at which an institution offers any education,*
19 *training, or instruction. A change of location of 25 or more miles*
20 *is deemed the establishment of a new location of instruction*
21 *requiring a separate approval to operate, unless otherwise*
22 *provided by the board.*

23 94726. *“Class” means a subject matter that is taught as part*
24 *of a course of instruction.*

25 94727. *“Class session” means the part of a day that an*
26 *institution conducts instruction or training in a particular class,*
27 *such as an hour of instruction in English or mathematics offered*
28 *on a particular day of the week.*

29 94728. *“College” or “university” means any incorporated*
30 *postsecondary educational entity, and its additional locations,*
31 *offering a substantially complete program that confers or offers*
32 *to confer at least an associate degree requiring at least 15 semester*
33 *hours or the equivalent of general education, or that furnishes or*
34 *offers to furnish instruction leading toward, or prerequisite to,*
35 *college credit. The terms include any college-credit-granting*
36 *independent educational institution that is chartered in this state*
37 *and any center or branch campus within this state of an out-of-state*
38 *institution at the college-credit level, or an out-of-state institution*
39 *with a “physical presence” in this state.*

1 94729. “Course of study” means a formally organized and
2 structured series of meetings open to the general public for which
3 a fee is charged, and for which credit toward a postsecondary
4 degree either is awarded or may reasonably be understood to be
5 applicable to a degree with the intent of imparting information or
6 understanding at a level appropriate to a postsecondary audience.
7 It may be comprised of either a single course or a set of related
8 courses for which a student enrolls.

9 94729.5. “CPEC” means the California Postsecondary
10 Education Commission established pursuant to Section 66901, or
11 a successor organization.

12 94730. “Credit hour” means the unit by which an institution
13 measures its course work. The number of credit hours assigned to
14 a course is defined by the number of hours per week in class and
15 preparation and the number of weeks in a term. One credit hour
16 is usually assigned for three hours of student work per week or its
17 equivalent. The three hours of student work per week usually
18 consists of a combination of one hour of lecture and two hours of
19 homework or three hours of laboratory. Semester and quarter
20 credit hours are the most common systems of measuring course
21 work. A semester credit hour is based on at least a 15-week
22 calendar or its equivalent. A quarter credit hour is based on at
23 least a 10-week calendar or its equivalent.

24 94731. “Degree” means any type of degree or honorary degree
25 or title of any designation, mark, appellation, series of letters or
26 words including, but not necessarily limited to, associate, bachelor,
27 master, doctor, or fellow that signifies, purports to constitute, or
28 is generally taken to signify, satisfactory completion of the
29 requirements of an academic, educational, technological, or
30 professional program of study beyond the secondary school level
31 or is an honorary title conferred for recognition of some
32 meritorious achievement.

33 94732. “Degree title” means the designated subject area of
34 study that also appears on the face of the document awarded to a
35 student signifying the conferring of a “degree.”

36 94733. “Diploma” means any diploma, document, or other
37 writing in any language, other than a “degree” or “certificate”
38 that signifies, purports to constitute, or is generally taken to signify,
39 satisfactory completion of the requirements of an academic,

1 *educational, technological, or professional program of study*
2 *beyond the secondary school level.*

3 94734. *“Diploma program” means an educational program*
4 *having all of the following characteristics:*

5 (a) *The educational program consists of a job-training program*
6 *or other instruction, training, or education that the institution*
7 *represents will lead to, or fit or prepare students for, employment*
8 *in any occupation.*

9 (b) *Students who complete all or a portion of the program are*
10 *awarded a non-credit bearing diploma or certificate of completion.*

11 94735. *“Distance education” means education that is designed*
12 *for learners who live at a distance from the teaching institution*
13 *or education provider. It is the enrollment and study with an*
14 *educational institution that provides organized formal learning*
15 *opportunities for students. Presented in a sequential and logical*
16 *order, the instruction is offered wholly or primarily by distance*
17 *study, through any media.*

18 94736. *“Distance learning school” means any institution that*
19 *provides lessons for study and completion by a student at a location*
20 *separate from the institution by correspondence, the Internet, or*
21 *other electronic means, including, but not necessarily limited to,*
22 *those institutions that offer that instruction in combination with*
23 *in-residence instruction.*

24 94737. *“Education,” “educational program,” or “educational*
25 *services” includes, but is not necessarily limited to, any class,*
26 *course, or program of training, instruction, or study. “Educational*
27 *service” also means any education, training, or instruction offered*
28 *by an institution, including, but not limited to, any equipment.*

29 94737.5. *“Electronic” or “digital” signature means an*
30 *electronic sound, symbol, process, or protocol, including but not*
31 *necessarily limited to, cryptographic techniques, attached to or*
32 *logically associated with a record or document and executed or*
33 *adopted by a person with the intent to sign the record or document,*
34 *as for an electronic document.*

35 94738. *“Employment” means any of the following:*

36 (a) *Full-time employment means employment for at least 32*
37 *hours per week for a period of at least 60 days in the occupations*
38 *or job titles to which the program of instruction is represented to*
39 *lead.*

1 (b) *Part-time employment means employment for at least 17.5*
2 *hours, but less than 32 hours, per week for a period of at least 60*
3 *days in the occupations or job titles to which the program of*
4 *instruction is represented to lead, provided the student completes*
5 *a handwritten statement at the beginning of the program and at*
6 *the end of the program that states that the student’s educational*
7 *objective is part-time employment. The institution shall not require*
8 *that any student complete such a statement or provide any*
9 *incentive, financial or otherwise, to any student for signing such*
10 *a statement.*

11 94738.5. *“Equipment” includes all textbooks, supplies,*
12 *materials, implements, tools, machinery, computers, electronic*
13 *devices, or any other goods related to any education, training, or*
14 *instruction, or an agreement for educational services or a course*
15 *of instruction.*

16 94739. *“Executive director” or “director” means the Executive*
17 *Director of the Board for Private Postsecondary Education.*

18 94739.5. *“Faculty” means an instructor or instructors within*
19 *any of the divisions or comprehensive branches of learning at a*
20 *college or university. For purposes of this chapter, “faculty,”*
21 *“instructor,” “professor,” and “teacher” are synonymous.*

22 94740. *“Funds” means cash or assets that can be converted*
23 *into cash within seven days. This definition relates to the financial*
24 *responsibility approval standard set forth in paragraph (1) of*
25 *subdivision (c) of Section 94853.*

26 94741. *“Hearing” means a hearing pursuant to the*
27 *requirements of this chapter.*

28 94742. *“Institution” means any private postsecondary*
29 *educational institution that offers education that can lead to a*
30 *degree. An “institution” includes its branch and satellite campuses,*
31 *unless otherwise provided by the board.*

32 94743. *“Institutional approval” means an institution that has*
33 *been evaluated by the board and has been found to be in*
34 *compliance with the board’s standards pursuant to this chapter.*

35 94744. *“Instruction” includes any specific, formal arrangement*
36 *by an institution or its enrollees to participate in learning*
37 *experiences in which the institution’s faculty or contracted*
38 *instructors present a planned curriculum appropriate to the*
39 *enrollee’s educational program.*

1 94745. “*Licensure*” includes any license, certificate, permit,
2 or similar credential that a person is required to hold to lawfully
3 engage in any occupation or activity.

4 94746. “*Main location*” or “*main site*” means the primary
5 teaching location of the institution. If an institution operates at
6 only one site, that site shall be considered its main location or
7 main site.

8 94747. “*Out-of-state school*” means any private postsecondary
9 or vocational educational institution offering career or job training
10 programs, including both an in-residence institution and a distance
11 learning institution that has its place of instruction or its principal
12 location outside the boundaries of the state, or that offers or
13 conducts programs of instruction or subjects on premises
14 maintained by the school outside the boundaries of the state, or
15 that provides distance education or correspondence lesson
16 materials from a location outside the boundaries of this state, or
17 that evaluates completed lesson materials or otherwise conducts
18 its evaluation service from a location outside the boundaries of
19 this state, or that otherwise offers or provides California students
20 with programs of instruction or subjects through activities engaged
21 in or conducted outside the boundaries of the state.

22 94748. “*Owner*” means any person who has a legal or
23 equitable interest in 10 percent or more of an institution’s stock
24 or assets.

25 94749. “*Parent corporation*” means a corporation that owns
26 more than 80 percent of the stock of the institution, the financial
27 resources of which are at issue.

28 94750. “*Person*” means a natural person or any business
29 entity, regardless of the form or organization.

30 94751. “*Person in control*” means a person who has sufficient
31 capacity, directly or indirectly, to direct or influence the
32 management, policies, or conduct of the institution so that the
33 person can cause or prevent violations of this chapter. There is a
34 rebuttable presumption affecting the burden of proof that an owner,
35 director, or officer of an institution is a person in control.

36 94752. “*Physical presence*” means an institution offering
37 postsecondary education courses in person, by correspondence,
38 or electronic media, to any California resident, including electronic
39 courses transmitted into the state of California. Physical presence
40 also means an institution operating any instructional site within

1 *the borders of California for the purpose of offering postsecondary*
2 *educational activities, including a personal residence where*
3 *instruction is delivered through electronically-mediated distance*
4 *education, or an institution that employs in California any person*
5 *or persons for the purpose of administering, coordinating,*
6 *teaching, training, tutoring, counseling, advising, or any other*
7 *activity on behalf of the sponsoring organization.*

8 (a) *An instructional site includes all instruction provided in*
9 *person, electronically, through correspondence, by telephone or*
10 *facsimile. Physical presence shall also mean the maintenance or*
11 *advertisement of an administrative location in California, such as*
12 *a mailing address or post office box, for education related activities*
13 *including, but not necessarily limited to, student recruitment,*
14 *advising, monitoring, study groups, and any other arrangement*
15 *that involves an organized group activity, composed of students*
16 *or prospective students, to include instruction, chat rooms,*
17 *seminars, or the administration of examinations.*

18 (b) *Representatives contracted or paid by institutions for the*
19 *purpose of conducting instructional or academic support activities*
20 *shall also be considered a physical presence in the State of*
21 *California.*

22 (c) *The institution has physical presence in California if it*
23 *delivers, or plans to deliver, instruction in California, and receives*
24 *assistance from any other organization within the state in*
25 *delivering the instruction, such as, but not necessarily limited to,*
26 *a cable television company or a television broadcast station that*
27 *carries instruction sponsored by the institution.*

28 94753. *“Placement rate” means the number and percentage*
29 *of students who complete their program and secure employment*
30 *in the field for which they were trained.*

31 94754. *“Private postsecondary educational institution” means*
32 *any person doing business in California that offers to provide or*
33 *provides, for tuition, fee, or other charge, any instruction, training,*
34 *or education that awards academic credit under any of the*
35 *following circumstances:*

36 (a) *A majority of the students to whom instruction, training, or*
37 *education is provided during any 12-month period is obtained*
38 *from, or on behalf of, students who have completed or terminated*
39 *their secondary education or are beyond the age of compulsory*
40 *high school attendance.*

1 (b) More than 50 percent of the revenue derived from providing
2 instruction, training, or education during any 12-month period is
3 obtained from, or on behalf of, students who have completed or
4 terminated their secondary education or are beyond the age of
5 compulsory high school attendance.

6 (c) More than 50 percent of the hours of instruction, training,
7 or education provided during any 12-month period is provided to
8 students who have completed or terminated their secondary
9 education or are beyond the age of compulsory high school
10 attendance.

11 (d) A substantial portion, as determined by the board, by
12 regulation, of the instruction, training, or education provided is
13 provided to students who have completed or terminated their
14 secondary education or are beyond the age of compulsory high
15 school attendance.

16 94755. “Program” or “program of instruction or study” means
17 a program of training, set of related courses, or education for
18 which a student enrolls.

19 94756. “Reporting period” means the institution’s fiscal year
20 or any year period designated by the board to be covered in the
21 institution’s annual report.

22 94757. “Representative” means any person who, for
23 compensation, does either of the following:

24 (a) Solicits, promotes, advertises, or refers or recruits students
25 or prospective students for an institution.

26 (b) Is involved with enrollment, admissions, student attendance,
27 administration, financial aid, instruction, or job placement
28 assistance on behalf of an institution.

29 94758. “Satellite” means an auxiliary classroom or a teaching
30 site. Student services, such as enrollment, advising, or placement,
31 shall not occur at a satellite location. All of the following apply
32 to a satellite:

33 (a) A satellite shall be physically located within 50 miles of an
34 institution’s main or branch location.

35 (b) Only educational services that are approved at the main
36 location shall be offered at the satellite.

37 (c) The institution shall maintain no permanent records of
38 attendance or academic progress at the satellite.

39 (d) Advertisement of a satellite shall indicate that the satellite
40 is an auxiliary classroom or a teaching site.

1 94759. “Secure employment” means employment starting
2 within six months of completing the program in the occupation to
3 which the program of instruction is represented to lead and
4 continuing in employment for a period of at least 60 days.

5 94760. “Site” means a main location, branch, or satellite
6 campus.

7 94761. “Teach-out” means an arrangement whereby an
8 institution offers to provide to a student, without any additional
9 charge, all of the instruction promised but not provided to that
10 student by a closed institution because of the closure.

11 94762. “Teach-out institution” means the institution offering
12 a teach-out.

13 94763. A “third-party payer” means an employer, government
14 program, or other payer that pays a student’s total charges directly
15 to the institution when no separate agreement for the repayment
16 of that payment exists between the third-party payer and the
17 student.

18 94764. “To offer” includes, in addition to its usual meanings,
19 advertising, publicizing, soliciting, or encouraging any person,
20 directly or indirectly, in any form, to perform the act described.

21 94765. “To operate” an educational institution, or like term,
22 means to establish, keep, or maintain any facility or location in
23 this state where, or from or through which, educational services
24 are offered or educational degrees are offered or granted.

25 (a) Offering courses in person, by correspondence, or electronic
26 media, at any California location for degree credit, including
27 electronic courses transmitted into the State of California.

28 (b) Granting or offering to grant degrees in California for credit
29 obtained within or outside the state.

30 (c) Maintaining or advertising a California location, mailing
31 address, or telephone number for any purpose or any other function
32 of a degree-granting institution, other than contact with the
33 institution’s former students for any legitimate purpose to their
34 having attended that institution.

35 94766. “Total charge” means the total charge for a course of
36 instruction or other education, instruction, or training, including
37 the charge for tuition, equipment, finance charges, and all other
38 fees, charges, costs, and expenses.

1 94767. “University” means an institution of higher education
2 that confers masters or doctorate degrees upon the completion of
3 programs of graduate or professional study.

4
5 Article 3. Exemptions
6

7 94770. It is the intent of the Legislature to carefully review the
8 exemptions in this article.

9 94771. The following are not considered to be private
10 postsecondary educational institutions under this chapter:

11 (a) Institutions exclusively offering instruction at any or all
12 levels from preschool through grade 12.

13 (b) Institutions offering education solely avocational or
14 recreational in nature, and institutions offering this education
15 exclusively.

16 (c) Institutions offering education sponsored by a bona fide
17 trade, business, professional, or fraternal organization, solely for
18 that organization’s membership.

19 (d) Postsecondary or vocational educational institutions
20 established, operated, and governed by the federal government or
21 by this state or its political subdivisions.

22 (e) Any public college, public university, public community
23 college, or public technical college or institute operating as part
24 of the public higher education system of this state.

25 (f) Any tribally controlled Native American college or university.

26 (g) (1) Except as provided in paragraph (2), “continuing
27 education” means instruction in any of the following
28 circumstances:

29 (A) Only in subjects that licensees are required to take as a
30 condition of continued licensure and solely for that purpose.

31 (B) Only in subjects necessary to continue to practice or work
32 in a profession such as law or medicine and solely for that purpose.

33 (C) To persons who are already in a particular profession,
34 trade, or job category for the sole purpose of enhancing their skills
35 or knowledge within that particular profession, trade, or job
36 category.

37 (2) “Continuing education” under this section does not include
38 any of the following:

39 (A) Vocational diploma programs that are credit bearing.

40 (B) Degree courses or programs.

1 (C) An educational service any part of the charge for which is
2 paid from the proceeds of a loan or grant subject to a governmental
3 student financial aid program.

4 (D) Institutions offering continuing education where the
5 institution or the program is approved, certified, or sponsored by
6 any of the following:

7 (E) A government agency, other than the board, that licenses
8 persons in a particular profession, trade, or job category.

9 (F) A state-recognized professional licensing body, including,
10 but not necessarily limited to, the State Bar of California, that
11 licenses persons in a particular profession, trade, or job category.

12 (G) A bona fide trade, business, or professional organization.

13 (h) An institution that limits its course of instruction to religion,
14 theology, or preparation for a religious vocation, or is operated
15 by a church or religious organization and limits its instruction to
16 preparation for service to churches or other religious
17 organizations. An institution exempted under this subdivision shall
18 be established as a nonprofit institution owned, controlled, and
19 operated and maintained by a bona fide church, religious
20 denomination, or religious organization lawfully operating as a
21 nonprofit religious corporation pursuant to Part 4 (commencing
22 with Section 9110) of Division 2 of Title 1 of the Corporations
23 Code. The exemption provided by this subdivision is limited as
24 follows:

25 (1) Instruction only in the beliefs, principles and practices of
26 that church, religious denomination, or religious organization, or
27 to courses offered pursuant to Section 2789 of the Business and
28 Professions Code.

29 (2) The diploma or degree or honorary degree conferred is
30 limited to evidence of completion of that education.

31 (3) Degrees awarded under this exception shall reflect the
32 nature of the degree, such as “Associate of Religious Studies” or
33 “Bachelor of Religious Studies,” or “Master of Divinity” or
34 “Doctor of Divinity,” and the curriculum content and objectives
35 shall reflect the strictly religious nature of the institution.

36 (A) Institutions operating under this paragraph shall not award
37 degrees in any area of physical science, philosophy, or the arts,
38 such as “Associate of Arts” or “Associate of Science,” “Bachelor
39 of Arts” or “Bachelor of Science,” “Master of Arts” or “Master
40 of Science,” or “Doctor of Philosophy” or “Ph.D.”

1 (B) *The use of the degree titles “Associate of Arts” or*
2 *“Associate of Science,” “Bachelor of Arts” or “Bachelor of*
3 *Science,” “Master of Arts” or “Master of Science,” or “Doctor*
4 *of Philosophy” or “Ph.D.” shall only be awarded by institutions*
5 *approved to operate under Article 8 (commencing with Section*
6 *94950) or meeting the requirements for an exemption under this*
7 *section.*

8 (4) *Any degree granted in any area of study under this*
9 *subdivision shall contain on its face, in the written description of*
10 *the title of the degree being conferred, a reference to the*
11 *theological or religious aspect of the degree’s subject area.*

12 (5) *The meritorious recognition upon which any degree or*
13 *honorary degree is conferred is limited to the principles of that*
14 *church, religious denomination, or religious organization.*

15 (6) *An institution operating under this subdivision shall*
16 *participate in the Integrated Postsecondary Education Data System*
17 *(IPEDS) reporting system as directed by the board, and file*
18 *annually with the board evidence to demonstrate its status as a*
19 *nonprofit religious corporation under Part 4 (commencing with*
20 *Section 9110) of Division 2 of Title 1 of the Corporations Code.*

21 (7) *A religious institution that is granted an exception under*
22 *this subdivision shall clearly disclose in all institutional catalogs*
23 *and other official publications the following statement:*

24 *“The Board of Postsecondary Education of the State of*
25 *California has determined that (the name of the institution)*
26 *qualifies for religious exception status for the following programs:*
27 *(list programs). Any questions or problems concerning this school*
28 *that have not been satisfactorily answered or resolved by the school*
29 *should be directed to the Board for Private Postsecondary*
30 *Education, (address), Sacramento, California 95814.”*

31 (8) *The intent of the Legislature in enacting this subdivision is*
32 *that the state should not involve itself in the content of degree*
33 *programs awarded by any institution operating under this*
34 *subdivision, as long as the institution awards degrees and diplomas*
35 *only in the beliefs and practices of the church, religious*
36 *denomination, or religious organization.*

37 (9) *Further, the intent of the Legislature in enacting this*
38 *subdivision is to prevent any entity claiming to be a nonprofit*
39 *institution owned, controlled, and operated and maintained by a*
40 *bona fide church, religious denomination, or religious organization*

1 *composed of multidenominational members of the same*
2 *well-recognized religion, lawfully operating as a nonprofit*
3 *religious corporation pursuant to Part 4 (commencing with Section*
4 *9110) of Division 2 of Title 1 of the Corporations Code, from*
5 *marketing and granting degrees or diplomas that are represented*
6 *as being linked to their church, religious denomination, or religious*
7 *organization, but that, in reality, are degrees in secular areas of*
8 *study.*

9 *(i) Effective January 1, 2008, the Committee of Bar Examiners*
10 *for the State of California shall be responsible for the approval,*
11 *regulation, and oversight of degree-granting law schools that*
12 *exclusively offer education leading to a juris doctor (J.D.) degree,*
13 *bachelor of laws (LL.B.) degree, or other law study degree,*
14 *bachelor's, master's, or doctorate degrees in law, such as Juris*
15 *Doctor. This paragraph does not apply to unaccredited law schools*
16 *that remain subject to the jurisdiction of the board.*

17 *(j) (1) All institutions certified to offer flight instruction by the*
18 *Federal Aviation Administration, and that operated in California*
19 *on December 31, 2007, shall receive approval or registration from*
20 *the board.*

21 *(A) On or before June 30, 2008, the board shall work in*
22 *cooperation with the Federal Aviation Administration to review*
23 *each of these institutions or registrants to determine whether each*
24 *is in compliance with the requirements of this chapter.*

25 *(B) It is the intent of the Legislature that the board should*
26 *develop a memorandum of understanding with the Federal Aviation*
27 *Administration to delineate the responsibilities of each agency for*
28 *the approval and monitoring of these institutions or registrants.*

29 *(2) An institution or a registrant certified to offer flight*
30 *instruction by the Federal Aviation Administration, or its successor*
31 *agency, shall comply with all of the requirements of Article 6*
32 *(commencing with Section 94850), Article 10 (commencing with*
33 *Section 95050), and Article 13 (commencing with Section 95100),*
34 *but shall not be required to file any materials with the board that*
35 *are not required by the Federal Aviation Administration or its*
36 *successor agency, except those minimally necessary to administer*
37 *the Student Tuition Recovery Fund as determined by the board.*
38 *The responsibility for monitoring and enforcing compliance shall*
39 *be with the board.*

1 (3) *This chapter does not apply to individual flight instructors*
2 *not requiring any advance payments, who do not negotiate a formal*
3 *contract of indebtedness, and who do not have an established place*
4 *of business other than their residences.*

5 (k) *Nonprofit regionally accredited colleges and universities.*
6 *This subdivision does not include a college or university that offers*
7 *nondegree certificate programs to a majority of its students.*

8
9 Article 4. *Board for Private Postsecondary Education*

10
11 94780. (a) *There is hereby established a Board for Private*
12 *Postsecondary Education in the Department of Consumer Affairs.*

13 (b) *The board shall succeed to any and all rights and claims of*
14 *the former Council for Private Postsecondary and Vocational*
15 *Education, the former Bureau for Private Postsecondary and*
16 *Vocational Education within the Department of Consumer Affairs,*
17 *and the Department of Consumer Affairs that may have been*
18 *asserted in any judicial or administrative action commenced before*
19 *July 1, 2007, and shall take any action reasonably necessary to*
20 *assert and realize those rights and claims in its own name.*

21 (c) *The functions and staff of the former council and board, and*
22 *the responsibilities the former council and the board had for the*
23 *administration of former Chapter 7 (commencing with Section*
24 *94700) on June 30, 2007, and January 1, 2008, are transferred to*
25 *the board, effective January 1, 2008, as provided by this chapter.*

26 (d) *It is the intent of the Legislature that there be no gap in the*
27 *performance of functions or the administration of the law*
28 *governing private postsecondary educational institutions.*
29 *Notwithstanding any other provision of law, Section 19050.9 of*
30 *the Government Code shall apply regardless of the date on which*
31 *former Chapter 7 (commencing with Section 94700) became*
32 *inoperative or was repealed.*

33 94781. (a) *The board shall be composed of seven voting*
34 *members, a majority of whom shall be representatives of the public.*
35 *The Governor shall appoint five members and the Senate*
36 *Committee on Rules and the Speaker of the Assembly shall each*
37 *appoint one member to the board.*

38 (b) *Any member of the board may be removed by the appointing*
39 *power for neglect of duty, misconduct, or malfeasance in office,*

1 *after being provided with a written statement of the charges and*
2 *an opportunity to be heard.*

3 *(c) No person who is currently or who has been in the last 12*
4 *months employed by an institution of public or private*
5 *postsecondary or vocational education, or by an organization*
6 *owning an interest in a private postsecondary or vocational*
7 *education institution, shall be appointed to, or serve on or serve*
8 *as staff to, the board. The executive director of the office shall not*
9 *be a member of the board.*

10 *(d) Each member of the board shall be appointed for a term of*
11 *four years.*

12 *(e) Each member of the board shall receive per diem and*
13 *expenses as provided in Section 103 of the Business and*
14 *Professions Code.*

15 *94782. Five members of the board shall constitute a quorum*
16 *for the transaction of business at any meeting. For the purpose of*
17 *transacting its business, the board shall meet at least once every*
18 *three months. The board shall keep, and easily make available to*
19 *the public, a record and minutes of all its proceedings.*

20 *94783. The board shall have the responsibility for approving*
21 *and regulating private postsecondary education institutions and*
22 *for enforcing state policies for private postsecondary education*
23 *in California. The board shall administer a fair, common-sense,*
24 *strong, and widely respected regulatory process over California's*
25 *private postsecondary education schools.*

26 *94784. (a) The board shall have possession and control of all*
27 *records, papers, offices, equipment, supplies, or other property,*
28 *real or personal, held for the benefit or use by the former council*
29 *and the current board in the performance of the duties, powers,*
30 *purposes, responsibilities, and jurisdictions that are vested in the*
31 *board.*

32 *(b) The Attorney General shall act as legal counsel for the board*
33 *for any judicial and administrative proceedings, and is authorized*
34 *to charge the board for his or her services.*

35 *(c) It is the intent of the Legislature that enforcement be as*
36 *prescriptive and clear as possible and include consolidation of*
37 *enforcement provisions, timely resolution of pending complaints,*
38 *specified permissive fines and penalties for various violations, and*
39 *clear due process. Corrective action plans for violations should*
40 *be required with clear time lines.*

1 94785. *The board shall appoint an advisory committee, which*
2 *shall consist of representatives of institutions, student advocates,*
3 *students, and employers who hire students, among other parties.*
4 *The advisory committee shall be balanced to ensure that*
5 *institutions and student advocates have approximate equal*
6 *representation. Institutional representatives on the committee shall*
7 *be in general proportion to the types of institutions approved*
8 *pursuant to this chapter and to the number of students served by*
9 *each type of institution. The advisory committee shall advise the*
10 *board, the executive director, and board staff concerning the*
11 *board's administrative, licensing, and enforcement functions under*
12 *this chapter.*

13 94786. *Protection of the public shall be the highest priority*
14 *for the board in exercising its approval, regulatory, and*
15 *disciplinary functions. Whenever the protection of the public is*
16 *inconsistent with other interests seeking to be promoted, the*
17 *protection of the public shall be paramount.*

18 94787. (a) *The board shall appoint an executive director, who*
19 *shall be subject to approval of the Director of Consumer Affairs*
20 *and confirmation by vote of a majority of the membership of the*
21 *Senate. The board may delegate any authority to the executive*
22 *director in administering this chapter. Any power granted to, or*
23 *duty imposed upon, the board under this chapter may be exercised*
24 *or performed by the executive director in the name of the board,*
25 *subject to any conditions and limitations the board may prescribe.*

26 (b) (1) *The executive director is exempt from the State Civil*
27 *Service Act (Part 2 (commencing with Section 18500) of Division*
28 *5 of Title 2 of the Government Code).*

29 (2) *The executive director may redelegate any of those powers*
30 *or duties to his or her staff or designee.*

31 (c) *The executive director, in accordance with the State Civil*
32 *Service Act (Part 2 (commencing with Section 18500) of Division*
33 *5 of Title 2 of the Government Code), may appoint and fix the*
34 *compensation of clerical, inspection, investigation, evaluation,*
35 *and auditing personnel, as may be necessary to carry out this*
36 *chapter.*

37 (d) *The board may authorize the executive director to do any*
38 *or all of the following:*

39 (1) *Plan, direct, supervise, and organize the work of the staff*
40 *of the board.*

1 (2) *Research, propose, and make policy recommendations*
2 *regarding postsecondary education issues to the board.*

3 (3) *Develop and implement regulations adopted by the board.*

4 (4) *Collect fees, issue approvals and permits, and investigate*
5 *complaints.*

6 (5) *Manage and administer funds and budgets according to*
7 *board's directions.*

8 (6) *Report to the board regarding implementation of board*
9 *policies and responses to board activity.*

10 (7) *Represent the board, as appropriate, in public policy*
11 *discussions and to the public and media.*

12 (8) *Enter into written agreements with individual accrediting*
13 *agencies recognized by the United States Department of Education*
14 *that, after determining that the accrediting entities' standards are*
15 *substantially equivalent to those of the board, allows institutions*
16 *within their membership to apply to the board by means of*
17 *accreditation for approval to operate, pursuant to Article 8*
18 *(commencing with Section 94950).*

19 94788. *It is the intent of the Legislature that the board's*
20 *approval and regulating responsibilities be funded solely through*
21 *approval fees and federal funding provided to implement the*
22 *approval process for courses offered to veterans by approved*
23 *institutions.*

24 94789. *The board shall have all of the following functions and*
25 *responsibilities in its capacity as the statewide private*
26 *postsecondary educational planning and approval agency:*

27 (a) *Administration of this chapter.*

28 (b) *Enforcement of minimum criteria for the approval and*
29 *registration of private postsecondary or vocational educational*
30 *institutions to operate in California and award degrees and*
31 *diplomas, and for the approval of institutions that meet the criteria.*

32 (c) *Promulgation and enforcement of regulations to interpret*
33 *and implement this chapter pursuant to Chapter 3.5 (commencing*
34 *with Section 11340) of Part 1 of Division 3 of Title 2 of the*
35 *Government Code.*

36 (d) *The publication of an Internet directory of each private*
37 *postsecondary and vocational educational institution approved to*
38 *operate in California under this chapter.*

39 (e) *The impaneling of committees of persons determined by the*
40 *board to be technically qualified to assist the board in the*

1 *development of standards for education and educational*
2 *institutions and the evaluation of an application or institutions*
3 *pursuant to this chapter. The members of the special committees*
4 *shall receive no compensation but shall be reimbursed for their*
5 *actual expenses for attendance at official meetings and actual*
6 *expenses when on official board business. The members of the*
7 *special committees shall serve at no expense to the state. The*
8 *institution that is the subject of inspection or investigation shall*
9 *reimburse the actual travel and per diem expenses incurred by*
10 *each member of a committee.*

11 *(f) (1) The board may design and administer a process for the*
12 *approval of courses offered to veterans, and for the approval and*
13 *supervision of the institutions offering courses to veterans, pursuant*
14 *to any applicable act of Congress and the regulations adopted*
15 *pursuant to such an act.*

16 *(2) For the purposes of this subdivision, the board:*

17 *(A) Is designated as the state approving agency for veterans'*
18 *institutions and veterans' courses, and is authorized to be*
19 *reimbursed for its services in this regard.*

20 *(B) Has the same powers conferred on the United States*
21 *Secretary of Education by Article 6 (commencing with Section*
22 *12090) of Chapter 1 of Part 8 of Division 1 of Title 1, to enter into*
23 *agreements and cooperate with the United States Department of*
24 *Veterans Affairs, or any other federal agency, regarding approval*
25 *of courses, and the approval and supervision of institutions that*
26 *offer courses to veterans.*

27 *(C) May adopt regulations that are necessary and appropriate*
28 *to exercise its authority under this subdivision.*

29 *94790. (a) For the purposes of administration and enforcement*
30 *of this chapter, the officers and employees of the board shall have*
31 *all the powers and authority granted under this chapter and under*
32 *Division 1 (commencing with Section 100) of, and Division 1.5*
33 *(commencing with Section 475) of, the Business and Professions*
34 *Code.*

35 *(b) The board shall establish a regular inspection program that*
36 *shall include, but is not limited to, unannounced inspections.*

37 *(c) The board shall immediately investigate and respond to all*
38 *complaints and claims by students.*

1 (d) If the board determines after an investigation that an
2 institution has violated this chapter or any of the regulations
3 adopted by the board, the board may do any of the following:

4 (1) Issue an administrative citation and impose an administrative
5 fine as authorized by, and in accordance with, Section 94963 or
6 Section 146, 147, or 148 of the Business and Professions Code.

7 (2) Issue an order of abatement or citation pursuant to Section
8 125.9 or 148 of the Business and Professions Code.

9 (3) Require the institution to prepare and implement a corrective
10 action plan that would include actions and a time line for
11 completion.

12 (4) Require progress reports on the corrective action plan.

13 (5) Issue an order prohibiting the enrollment of new students.

14 (6) Initiate proceedings under the Administrative Procedure
15 Act or this chapter to revoke or suspend the institution's approval
16 to operate, or to place the institution on probation.

17 (7) With the consent of the institution, refer an adjudicative
18 proceeding to mediation, or binding or nonbinding arbitration, in
19 accordance with the regulations of the Office of Administrative
20 Hearings or the Office of the Attorney General.

21 (8) Order reimbursement of the costs of the investigation and
22 enforcement in accordance with Article 12 (commencing with
23 Section 95070) or Section 125.3 of the Business and Professions
24 Code. An institution shall not be required to pay the same costs
25 and expenses to more than one investigating entity.

26 (9) Notify a telephone company to disconnect the institution's
27 telephone as authorized by Section 149 of the Business and
28 Professions Code.

29 94791. (a) Any person, serving on a committee of the board,
30 a visiting committee pursuant to Section 94956, or any other peer
31 review body impaneled by the board and who provides information
32 to the board or its staff in the course and scope of evaluating any
33 institution or registrant subject to this chapter or who testifies at
34 any administrative hearing arising under this chapter, is entitled
35 to a defense by, and indemnification from, the board to any action
36 arising out of information or testimony to the board that person
37 would have if he or she were a public employee.

38 (b) Any defense by, or indemnification from, the board, as
39 specified in subdivision (a) shall be solely with respect to that
40 claim or action pursuant to Article 4 (commencing with Section

1 825) of Chapter 1 of Part 2 of, and Part 7 (commencing with
2 Section 995) of, Division 3.6 of Title 1 of the Government Code.

3 94792. Each member of the board shall disclose all *ex parte*
4 communications from any parties having an issue before the board.
5 These disclosures shall be made public and included in minutes
6 of board meetings.

7 94793. The board shall make available to members of the
8 public, on its Internet Web site and through other appropriate
9 means, the nature and disposition of all complaints on file with
10 the board against an institution or registrant.

11 94794. (a) The board shall work together with staff of the
12 CPEC and higher education legislative committees, along with
13 representatives of regulated institutions, the Student Aid
14 Commission, students, and other interested parties to revise this
15 chapter to streamline its provisions and eliminate contradictions,
16 redundancies, ambiguities, conflicting provisions, and unnecessary
17 provisions. Within the first 12 months from the date when the
18 powers, authorities and responsibilities in this chapter are
19 transferred to the board, the board shall make recommendations
20 to the Legislature regarding all of the following:

21 (1) The progress of the state's utilization of national and
22 regional accreditation as part of the state approval process.

23 (2) The development of a cost-based fee structure for institutions
24 subject to Article 8 (commencing with Section 94950).

25 (3) The status of the Attorney General's implementation of an
26 efficient and effective enforcement program.

27 (b) The board shall objectively assess the cost of meeting its
28 statutory obligations, determine the staffing necessary to meet
29 those obligations, determine whether the current fee structure
30 allows for collection of revenue sufficient to support the necessary
31 staffing, and report that information to the Governor through the
32 annual Budget process.

33 (c) The board shall incorporate and continuously monitor its
34 data collection, dissemination and information systems into
35 CPEC's data system as the state's designated higher education
36 data coordinator and information clearinghouse, so that it will
37 provide improved reporting of information regarding the private
38 postsecondary education sector, and improved monitoring of
39 reports, initial and renewal applications, complaint and
40 enforcement records, and collection of fees among other

1 information necessary to serve the board's wide-ranging data
2 management needs effectively. The board shall continue to make
3 improvements to its data collection and dissemination systems to
4 meet its program responsibilities.

5 (d) All institutions covered by this statute shall participate in
6 the Integrated Postsecondary Education Data System (IPEDS)
7 reporting system. This participation shall be a condition of
8 approval, and shall be monitored by the board.

9 (e) All institutions covered by this statute shall inform the board
10 of their participation in other locally-funded, state-funded, or
11 federally-funded programs that assess the effectiveness of those
12 institutions' programs including, but not necessarily limited to,
13 programs funded by the federal Workforce Investment Act (29
14 U.S.C. Sec. 2801 et seq.) and the federal Americans with
15 Disabilities Act (42 U.S.C. Sec. 12101 et seq.).

16 94795. (a) The board shall establish an expanded outreach
17 program for prospective and current private postsecondary
18 education students and high school students, to provide them with
19 information on how best to select postsecondary or vocational
20 schools, how to enter into contracts and student enrollment
21 agreements, how to protect themselves in the postsecondary and
22 vocational education marketplace, and how to contact the
23 commission for assistance if problems arise.

24 (b) The board shall establish quarterly workshops for the
25 purpose of providing applicants and institutions information on
26 application processes, best practices for offering postsecondary
27 educational services, and may include any other subjects that
28 encompass vast number of topics that affect postsecondary
29 education.

30 94796. Any degree granting institution operating on December
31 31, 2007, with a full, conditional, or temporary approval to
32 operate, may continue to operate under the terms of that approval
33 until that approval to operate expires or a subsequent action is
34 taken by the board that affects that approval to operate, whichever
35 comes first.

36 94797. Any nondegree granting institution operating on
37 December 31, 2007, with a approval to operate, may continue to
38 operate, under the terms that approval to operate expires or a
39 subsequent action is taken by the board that affects that approval
40 to operate, whichever comes first.

1 94798. *The board shall adopt a strategic plan by December*
2 *31, 2008, and update the plan periodically as needed. The plan*
3 *shall address all issues relative to regulation of California’s private*
4 *postsecondary and vocational education institutions through a*
5 *means that provides full protection of students and high quality*
6 *education, through a reasonable and appropriate regulatory*
7 *process that is nonburdensome for the industry. This shall also*
8 *include statewide and regional coordination with school districts,*
9 *trade and industrial associations, workforce investment boards,*
10 *the Employment Development Department, and others to ensure*
11 *that institutions are producing graduates that meet the needs of*
12 *business and have a higher likelihood of finding gainful*
13 *employment in their chosen area of study.*

14 94799. *All meetings of the board shall be subject to the*
15 *Bagley-Keene Open Meeting Act (Article 9 (commencing with*
16 *Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of*
17 *the Government Code).*

18 94800. *The board shall adopt performance standards, post*
19 *that information on its Web site, and provide this same information*
20 *to the Department of Consumer Affairs, the Department of Finance,*
21 *the Legislative Analyst’s Office, and the Legislature annually*
22 *through the Budget process.*

23 94801. *The board shall maintain a state-of-the-art Internet*
24 *Web site that shall include all of the following:*

- 25 (a) *A list of approved schools.*
- 26 (b) *The status of the license for each school.*
- 27 (c) *Disciplinary actions.*
- 28 (d) *Anecdotal stories to illustrate to a student the information*
29 *he or she should seek out to limit the risks undertaken in enrolling*
30 *in a school.*
- 31 (e) *Hyperlinks to related public services available to students*
32 *and required consumer protections.*

33 94802. *The board shall provide an annual report to the*
34 *Legislature and Governor on the board’s activities in implementing*
35 *this chapter.*

36 94803. *The board shall adopt, and periodically review and*
37 *update, internal quality review and audit procedures to ensure*
38 *that processes are in place to promote and achieve full compliance*
39 *with the this chapter.*

1 94804. (a) Before January 1, 2011, the Assembly Committee
2 on Higher Education and the Senate Education Committee shall
3 hold joint public hearings to review the implementation of this
4 chapter.

5 (b) If, as a result of the joint hearings, the Assembly Committee
6 on Higher Education and the Senate Education Committee jointly
7 determine that there are problems with the implementation of this
8 chapter sufficient to justify the reconstitution of the board, the
9 terms of the members as of the date of that determination shall
10 end, and the appointing entities under Section 94771 may appoint
11 new members to the board in accordance with that section.

12 (c) An appointing entity under Section 94771 may reappoint a
13 member of the board whose term is ended under subdivision (b),
14 in accordance with Section 94771.

15 (d) A member of the board whose term is ended under
16 subdivision (b) may continue to serve until a new member is
17 appointed for that position in accordance with subdivision (b).

18

19

Article 5. Fees and Costs

20

21 94820. (a) The Private Postsecondary Education
22 Administration Fund is continued in existence. All fees collected
23 pursuant this chapter shall be credited to this fund along with any
24 interest on the money, for the administration of this chapter. The
25 money in the fund shall be appropriated annually in the Budget
26 Act for the purposes of this chapter.

27 (b) A minimum of 50 percent of the funds appropriated to the
28 board shall be used to cover the costs of enforcing all of the
29 following:

30 (1) Enforcing this chapter by taking actions against violators,
31 while ensuring due process for all institutions.

32 (2) Ensuring that independent on-site evaluations and random
33 and targeted inspections and audits of institutions are conducted,
34 and that students have easy access to information concerning their
35 rights to contract cancellation, withdrawal, refunds, and remedies.

36 (3) Mediating student complaints to achieve balanced outcomes
37 for students and institutions.

38 (c) (1) For the approval of private institutions operating under
39 this chapter, the board shall charge an amount not to exceed the

1 actual costs of approving or renewing the approval of the private
2 institutions.

3 (2) The board may add or delete categories of fees related to
4 work performed by the board and the maximum amount to be
5 charged for each fee category added to the fee schedule. The fee
6 schedule shall provide adequate resources, including an annual
7 inflation adjustment, for the board to implement this chapter
8 effectively. The board shall annually present its proposed budget
9 and fee schedule, penalty fees assessed for delinquent payments
10 and additions and deletions of fee categories to the Department
11 of Finance and the Joint Legislative Budget Committee for their
12 review and approval as part of the annual budget process.

13 (3) The board shall annually publish a schedule of the current
14 fees to be charged pursuant to this section, and shall make this
15 schedule generally available to the public. These fees may be
16 increased annually, without any additional review and approval
17 by the Office of Administrative Law.

18 (d) The fee schedule established under Section 94824 shall take
19 effect on January 1, 2008, and shall be retained for the first 12
20 months of operation of the board. The board shall report to the
21 Governor and the Legislature by December 31, 2008, on this
22 schedule, and make recommendations on the further development
23 and implementation of a cost-based fee structure.

24 94821. Any institution or registrant more than 30 days
25 delinquent in the payment of any fee or order for the recovery of
26 costs and expenses under Section 95102, may be assessed a penalty
27 fee by the board.

28 94822. (a) If the board determines after an investigation that
29 an institution or registrant has violated this chapter, the board
30 may order the institution or registrant to pay the costs and expenses
31 incurred in connection with the investigation and any civil or
32 administrative proceeding involving the violation that was
33 investigated, including charges made by the Attorney General for
34 his or her services, and any expenses incurred by a district
35 attorney. Before any order for the payment of costs and expenses
36 is made under this section, the board shall provide a written notice,
37 including notice of the institution's right to request a hearing
38 within 15 days of service of the notice.

39 (b) If a hearing is not timely requested, the board may order
40 payment. If a hearing is requested, the board shall comply with

1 *Article 10 (commencing with Section 95050). Within 30 days after*
2 *the effective date of the order, the board may enforce the order as*
3 *if it were a money judgment pursuant to Title 9 (commencing with*
4 *Section 680.10) of Part 2 of the Code of Civil Procedure.*
5 *Alternatively, the board may seek the costs and expenses allowed*
6 *under this section in a civil proceeding. An institution or registrant*
7 *shall not be required to pay the same costs and expenses incurred*
8 *in connection with the investigation and any civil or administrative*
9 *proceeding to more than one investigating agency.*

10 94823. *The effective date of any statutory amendment to this*
11 *chapter affecting revenues payable to the board from any service*
12 *shall be immediate.*

13 94824. *Effective January 1, 2008, the board shall charge the*
14 *following fees:*

15 (a) ____.

16 (b) ____.

17 (c) ____.

18 94825. *The board may annually adjust the schedule set forth*
19 *in Section 94824 to reflect changes in the consumer price index,*
20 *and shall maintain and implement an updated fee schedule on at*
21 *least a biennial basis thereafter. The new and subsequent fee*
22 *schedules shall include consideration of actual and projected*
23 *enforcement costs of the board in administering this chapter.*

24

25 *Article 6. Student Consumer Protection*

26

27 94850. *All institutions approved under Tier 2 or Tier 3, as*
28 *defined in Section 94955, shall be maintained and operated, or in*
29 *the case of a new institution, shall demonstrate that it will be*
30 *maintained and operated, in compliance with all of the following*
31 *minimum standards:*

32 (a) *That, the institution is financially capable of fulfilling its*
33 *commitments to its students.*

34 (b) *That, upon satisfactory completion of study or training, the*
35 *student is given an appropriate degree, or certification, by the*
36 *institution, indicating that the student has satisfactorily completed*
37 *the program or programs of instruction.*

38 (c) *That the institution provides instruction as part of its*
39 *educational program.*

1 94851. *The executive director shall report all enforcement*
2 *actions to the board in full board hearings.*

3 94852. *Institutions planning to or currently delivering*
4 *postsecondary education by correspondence or through online*
5 *Internet delivery to California students for college credit or*
6 *non-credit bearing programs leading to a particular vocational,*
7 *trade, or career field that will maintain no physical presence in*
8 *the state shall not offer these educational programs unless the*
9 *institution has been approved by the board as meeting the*
10 *requirements of this chapter.*

11 94853. (a) *As a condition of obtaining initial approval to*
12 *operate or maintaining or renewing its approval to operate, a Tier*
13 *1 institution, as defined in Section 94955, shall comply with, and*
14 *a Tier 2 or Tier 3 institution, as defined in Section 94955, offering*
15 *any educational program or educational service shall demonstrate*
16 *compliance with, the following financial resource requirements*
17 *criteria in addition to the financial requirements of Section 94855.*

18 (1) *Satisfy minimum standards prescribed by Article 7*
19 *(commencing with Section 94900), Article 8 (commencing with*
20 *Section 94950), and, if applicable, Article 10 (commencing with*
21 *Section 95050).*

22 (2) *Provide the education, training, skill, and experience that*
23 *the institution, in any manner, represented it would provide.*

24 (3) *Pay timely refunds as required by Section 94865 or 94867.*

25 (b) (1) *In determining the extent of an institution's compliance*
26 *with subdivision (a), the board, at the institution's request, may*
27 *consider the financial resources of a parent corporation if the*
28 *parent corporation files with the board, and at all times complies*
29 *with, an irrevocable and unconditional agreement approved by*
30 *its board of directors that satisfies all of the requirements of*
31 *paragraph (2).*

32 (2) *The agreement described in paragraph (1) shall provide*
33 *that the parent corporation does all of the following:*

34 (A) *Consent to be sued in California in connection with the*
35 *provision of education services to California residents.*

36 (B) *Consent to be subject to the administrative jurisdiction of*
37 *the board and the Student Aid Commission in connection with the*
38 *institution's compliance with this chapter.*

39 (C) *Appoint an agent for service of process in California and*
40 *all notices required by this chapter.*

1 (D) Agree to pay any refund, claim, penalty, or judgment that
2 the institution is obligated to pay.

3 (E) File financial reports, maintain financial records, and permit
4 the inspection and copying of financial records to the same extent
5 as is required of the institution.

6 (3) For the purposes of this subdivision, a “parent corporation”
7 means a corporation that owns more than 80 percent of the stock
8 of the institution whose financial resources is at issue.

9 (c) An institution shall not be considered financially responsible
10 under any of the following conditions:

11 (1) (A) The institution fails to have available sufficient funds
12 and accounts receivable to pay all operating expenses due within
13 30 days.

14 (B) For the purposes of this paragraph, “funds” means cash
15 or assets that can be converted into cash within seven days.

16 (2) (A) Under generally accepted accounting principles, the
17 institution had, at the end of its latest fiscal year, a quick ratio of
18 current assets to current liabilities of 1.25 to 1 or higher.

19 (B) The “quick ratio” or “acid test” within the meaning of this
20 paragraph shall be calculated as follows:

21 (i) Deduct from the total current assets the school’s inventory.

22 (ii) Divide this figure by the current liabilities.

23 (iii) The quotient is the quick ratio.

24 (3) For the purposes of this paragraph, “current assets” do not
25 include any of the following:

26 (A) Intangible assets, including goodwill, going concern value,
27 organization expense, startup costs, long-term prepayment of
28 deferred charges, and nonrefundable deposits.

29 (B) State or federal grant funds that are not the property of the
30 institution, but which are held for future disbursement for the
31 benefit of students. Unearned tuition shall be accounted for in
32 accordance with generally accepted accounting principles.

33 (d) If the board determines that an institution is not financially
34 responsible, the board, under terms and conditions prescribed by
35 the board, may require the institution to submit for its latest
36 complete fiscal year and its current fiscal year, each of the
37 following:

38 (1) A financial audit of the institution conducted by a licensed
39 certified public accountant, in accordance with generally accepted
40 auditing standards.

1 (2) *The institution's financial plan for establishing financial*
2 *responsibility.*

3 (3) *Any other information requested by the board.*

4 (e) *Subdivision (d) does not prevent the board from taking any*
5 *other actions authorized under this chapter.*

6 94854. *Tier 2 and Tier 3 institutions, as defined in Section*
7 *94955, shall file annually with the board a financial report*
8 *prepared pursuant to Section 94855. Work papers for the audit*
9 *shall be retained for five years from the date of the audit report,*
10 *and shall be made available to the board upon request after the*
11 *completion of the audit.*

12 94855. (a) *This section applies to every audit, review, and*
13 *statement prepared by an independent accountant and to every*
14 *financial report required to be prepared or filed by this chapter.*

15 (b) *Audits and reviews of financial data, including the*
16 *preparation of financial statements, shall comply with all of the*
17 *following:*

18 (1) *An institution that collected seven hundred fifty thousand*
19 *dollars (\$750,000) or more in total student charges in its preceding*
20 *fiscal year shall file financial reports prepared in accordance with*
21 *generally accepted accounting principles established by the*
22 *American Institute of Certified Public Accountants, and audited*
23 *or reviewed by an independent certified public accountant who is*
24 *not an employee, officer, or corporate secretary or member of the*
25 *governing board of the institution.*

26 (2) *An institution or registrant that collected less than seven*
27 *hundred fifty thousand dollars (\$750,000) in total student charges*
28 *in its preceding fiscal year shall file financial reports prepared in*
29 *accordance with generally accepted accounting principles*
30 *established by the American Institute of Certified Public*
31 *Accountants. An individual with sufficient training to adhere to*
32 *the required accounting principles may prepare these financial*
33 *reports.*

34 (3) *Financial reports prepared on an annual basis shall include*
35 *a balance sheet, statement of operations, statement of cash flow,*
36 *and statement of retained earnings or capital. Nonprofit institutions*
37 *shall provide this information in the manner required under*
38 *generally accepted accounting principles for nonprofit*
39 *organizations.*

1 (4) *The financial report shall establish whether the institution*
2 *or registrant complies with subdivision (a) of Section 94853 or*
3 *subdivision (a) of this section, if applicable, and whether any of*
4 *the circumstances described in subdivision (b) of Section 94853*
5 *or subdivision (b) of this section, if applicable, exist.*

6 (5) *If an audit that is performed to determine compliance with*
7 *any federal or state student financial aid program reveals any*
8 *failure to comply with the requirements of the program, and the*
9 *noncompliance creates any liability or potential liability for the*
10 *institution, the financial report shall reflect the liability or potential*
11 *liability.*

12 (6) *Work papers for the financial statements shall be retained*
13 *for five years from the date of the reports, and shall be made*
14 *available to the board upon request after completion of the report.*

15 (c) *Any audits shall be conducted in accordance with generally*
16 *accepted auditing standards, and shall include the matters*
17 *described in subdivision (d).*

18 (d) *If an audit is conducted, the accountant shall obtain an*
19 *understanding of the institution's internal financial control*
20 *structure, assess any risks, and report any material deficiencies*
21 *in the internal controls.*

22 (e) *Any audit or financial report shall contain a statement signed*
23 *by the individual who has prepared the report stating that the*
24 *institution has paid or has not paid to the board all amounts owed*
25 *under Section 95102. If the institution is a corporation that is*
26 *publicly traded on a national stock exchange, the submission of*
27 *the corporation's annual report shall be deemed to comply with*
28 *this section. The board shall be deemed an intended beneficiary*
29 *of that statement in any audit or financial report. An institution*
30 *or registrant that has not paid all amounts owed to the board under*
31 *Section 95102 shall report to the board within 30 days on its plan*
32 *to become current in these payments. This subdivision shall not*
33 *be construed to require the institution or registrant to prepare a*
34 *separate audit or report on the Student Tuition Recovery Fund.*

35 94856. (a) *Each institution approved to operate under this*
36 *chapter shall report to the board, by July 1 of each year, or another*
37 *date designated by the board, the following information for*
38 *educational programs offered in the prior fiscal year:*

39 (1) *The total number of students enrolled, by level of degree or*
40 *type of diploma program.*

- 1 (2) *The number of degrees and diplomas awarded, by level of*
2 *degree.*
- 3 (3) *The degree levels offered.*
- 4 (4) *Program completion rates.*
- 5 (5) *The schedule of tuition and fees required for each term,*
6 *program, course of instruction, or degree offered.*
- 7 (6) *Financial information demonstrating compliance with*
8 *subdivisions (b) and (c) of Section 94853 and subdivisions (b) and*
9 *(c) of Section 94855, if applicable.*
- 10 (7) *Institutions having a probationary or conditional status*
11 *shall submit an annual report reviewing their progress in meeting*
12 *the standards required for approval status.*
- 13 (8) *A statement indicating whether the institution is or is not*
14 *current on its payments to the Student Tuition Recovery Fund.*
- 15 (9) *A log of all written student complaints received and their*
16 *disposition.*
- 17 (10) *A log of all arbitrations or actions filed against the school*
18 *and their disposition, including, the monetary amount of any*
19 *settlement and any injunctive or other equitable relief provided*
20 *by the disposition. On request of the board, the documents*
21 *constituting any disposition of that matter shall be made available*
22 *to the board.*
- 23 (11) *Any additional information that the board may prescribe.*
- 24 (b) *The information required to be reported by subdivision (a)*
25 *shall be provided in two electronic formats, one of which may be*
26 *in a form that cannot be changed, such as in a portable document*
27 *format (pdf.) file, and one of which shall be in a searchable*
28 *modifiable electronic format to be specified by the board, or if*
29 *none is specified, in a commonly available spreadsheet program*
30 *with any necessary narrative provided in a commonly available*
31 *word processing program.*
- 32 (c) *Colleges and universities operating under subdivision (h)*
33 *of Section 94771 shall comply with the reporting requirements of*
34 *paragraphs (1), (2), (3), and (5) of subdivision (a).*
- 35 (d) (1) *Program completion rates and placement data shall be*
36 *reported in accordance with the standards and criteria prescribed*
37 *by the board pursuant to this article and Section 94863, if*
38 *applicable.*
- 39 (2) (A) *The data underlying the completion rates and placement*
40 *data reported pursuant to this subdivision shall also be provided,*

1 including the name, address, and telephone number of each student
2 who enrolled in a program of instruction, including each student
3 who canceled or withdrew before completing the program; the
4 date upon which the student completed the program of instruction
5 if he or she completed the program; for each student counted as
6 a job placement, the name, address, and telephone number of his
7 or her employer, the name, address, and telephone number of the
8 person who provided to the institution the information regarding
9 the person's employment, the name, title, or description of the job,
10 the date upon which the student first reported for employment, the
11 duration of the student's employment, the number of hours the
12 student worked per week, the student's starting salary, and the
13 date or dates upon which the institution verified employment; if
14 any student was excluded from the completion or placement rate
15 calculations, a statement of the reason or reasons each of these
16 students was excluded; and if the student chose not to seek
17 employment and instead enrolled in another program to earn a
18 higher degree, the name and address of the institution in which
19 he or she enrolled, as well as the program in which he or she
20 enrolled.

21 (B) If the student is self-employed, the institution shall include
22 any documentation of self-employment, including, for example,
23 contracts, checks for payment, tax returns, social security
24 contribution records, records of accounts receivable or customer
25 payments, invoices for business supplies, rent receipts, appointment
26 book entries, business licenses, or any other information required
27 by the board that is a reliable indicator of self-employment. All of
28 this information shall be provided electronically in a format
29 prescribed by the board.

30 (3) Based on the review of information submitted to fulfill the
31 requirements of this section, the board may initiate a compliance
32 review and may place the institution on probation pursuant to
33 Section 95074, and may require evidence of financial stability and
34 responsibility pursuant to Sections 94853 and 94855, if applicable.
35 94857. Each institution approved under this chapter shall
36 provide the board with copies of all accrediting agency reports,
37 including preliminary reports and reports of visiting committees,
38 all audit reports prepared by the United States Department of
39 Education and student loan guaranty agencies, including all
40 preliminary reports, and the institution's written responses to the

1 reports described in this section, if applicable. The institution shall
2 provide a copy of each report within 15 days of the institution's
3 receipt of the report and a copy of the institution's response within
4 15 days of the institution's submission of its response. By a general
5 announcement on its Internet Web site, the board may authorize
6 or require these copies to be provided electronically or in paper
7 versions. Any documents provided electronically under this section
8 shall be indexed, with each separate document that makes up the
9 report or response provided as a separate file.

10 94858. (a) No institution approved under this chapter shall
11 offer any program of instruction to any person, or receive any
12 consideration from any person for a program of instruction, except
13 pursuant to a written agreement as described in this section. Any
14 written contract or agreement signed by a prospective student
15 shall not become operative until the student attends the first class
16 or session of instruction or has received the first lesson, if the
17 student is enrolled in a correspondence program.

18 (b) Every agreement for a program of instruction shall provide
19 all of the following:

20 (1) The name and address of the school and the addresses where
21 instruction will be provided.

22 (2) The name and description of the program of instruction,
23 including the total number of credits, classes, hours, or lessons
24 required to complete the program of instruction.

25 (3) A clear and conspicuous statement that the agreement or
26 contract is a legally binding instrument when signed by the student
27 and accepted by the school.

28 (4) The total amount that the student is obligated to pay for all
29 fees, charges, and expenses that shall be paid to complete the
30 program of instruction and all other services and facilities
31 furnished or made available to the student by the school, including
32 any charges made by the school for tuition, room and board, books,
33 materials, supplies, shop and studio fees, and any other fees and
34 expenses that the student will incur upon enrollment, shall be
35 separately itemized and underlined in capital letters on the same
36 page of the contract or agreement in which the student's signature
37 is required.

38 (A) If the student signs an agreement for the entire program,
39 the tuition and all other fees for the total cost of the program shall
40 be detailed. If the student enrolls by the semester or quarter, the

1 catalog shall include: the tuition per unit of credit, the units
2 required per semester or quarter, the number of units required for
3 the degree, a listing of all fees required to be paid and a description
4 of how and when fees are to be paid.

5 (B) The total amount charged for each item of equipment shall
6 be separately stated. The amount charged for each item of
7 equipment shall not exceed the equipment's fair market value. The
8 institution shall have the burden of proof to establish the
9 equipment's fair market value.

10 (C) The total amount shall be underlined and capitalized and
11 shall appear immediately above the following notice, which shall
12 be printed above the space on the agreement that is reserved for
13 the student's signature:

14 **“YOU ARE RESPONSIBLE FOR THIS AMOUNT. IF YOU GET**
15 **A STUDENT LOAN, YOU ARE RESPONSIBLE FOR REPAYING**
16 **THE LOAN AMOUNT PLUS ANY INTEREST.”**

17 (D) A list of any charges and deposits that are nonrefundable
18 shall be listed separately and clearly identified as nonrefundable
19 charges.

20 (E) The signature of the student under the following statement
21 that is presented in 12-point boldface or larger print: “My
22 signature below certifies that I have read, understood, and agreed
23 to my rights and responsibilities, the catalog and the institution's
24 cancellation and refund policies.”

25 (5) A clear and conspicuous caption, “BUYER'S RIGHT TO
26 CANCEL” under which it is explained in detail that the student
27 has the right to cancel the enrollment agreement and obtain a
28 refund, the form and means of notice that the student should use
29 in the event that he or she elects to cancel the enrollment
30 agreement, and the title and address of the school official to whom
31 the notice should be sent or delivered. The following statement
32 shall be included on the enrollment agreement:

33 “Students may cancel their contract with the school, without
34 any penalty or obligations on the fifth business day following the
35 first scheduled class session or with the first lesson in a
36 correspondence course, whichever is applicable. Cancellations
37 shall be made in writing. After the end of the cancellation period,
38 students also have the right to stop school at any time, and have
39 the right to receive a refund for the part of the program not taken
40 but have been paid for. If a student loses their copy of the contract,

1 *the school shall provide another copy to the student upon written*
2 *request and without charge. If the school closes before the student*
3 *graduates, that student may be entitled to a refund. Any questions*
4 *or problems concerning this school that have not been satisfactorily*
5 *answered or resolved by the school should be directed to the board*
6 *for Private Postsecondary Education, (address), Sacramento,*
7 *California 95834 or (Internet Web address).”*

8 (A) *If the student is not a resident of California or is the*
9 *recipient of third-party payor tuition and course costs, such as*
10 *workforce investment vouchers or rehabilitation funding, a clear*
11 *statement that the student is not eligible for protection under and*
12 *recovery from the Student Tuition Recovery Fund.*

13 (B) *The student’s right to withdraw from the program of*
14 *instruction and obtain a refund and an explanation of refund rights*
15 *and of how the amount of the refund will be determined including*
16 *a hypothetical example.*

17 (6) *A statement specifying that it is a state requirement that a*
18 *resident California student who pays his or her own tuition, either*
19 *directly or through a loan, is required to pay a state-imposed fee*
20 *for the Student Tuition Recovery Fund.*

21 (7) *A statement describing the purposes, operation, and*
22 *eligibility requirements of the Student Tuition Recovery Fund.*

23 (c) *All contracts and enrollment agreements signed by the*
24 *student shall be written in language that is capable of being easily*
25 *understood. If English is not the primary language spoken by the*
26 *student, the student shall have the right to obtain a clear*
27 *explanation of the terms and conditions of the agreement and all*
28 *cancellation and refund policies in his or her primary language.*

29 (d) *The institution shall provide a summary of the financial*
30 *resources encumbered by the student including, but not necessarily*
31 *limited to, public and private sources, interest rates, and total*
32 *repayment obligation.*

33 (e) *Each student shall be provided copies of any document that*
34 *he or she signs.*

35 (f) *The board may provide for the inclusion of additional*
36 *information in the enrollment agreement.*

37 94859. *No student may waive any provision of this article. Any*
38 *waiver or limitation of any substantive or procedural right or*
39 *remedy is contrary to public policy and is therefore in violation*
40 *of this section and thereby void and unenforceable.*

1 94860. (a) (1) Any institution or registrant governed by this
2 chapter extending credit or lending money to any person for tuition,
3 fees, or any charges whatever, for educational services to be
4 rendered or furnished shall cause any note, instrument, or other
5 evidence of indebtedness taken in connection with that loan or
6 extension of that credit to be conspicuously marked on the face
7 thereof with the following notice: “NOTICE: ANY HOLDER OF
8 THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL
9 CLAIMS AND DEFENSES THAT THE DEBTOR COULD ASSERT
10 AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED
11 PURSUANT TO THIS CONTRACT OR WITH THE PROCEEDS
12 HEREOF, RECOVERY UNDER THIS CONTRACT BY THE
13 DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE
14 DEBTOR UNDER THIS CONTRACT.”

15 (2) If the school or institution or registrant fails to do so, it shall
16 be liable for any damage or loss suffered or incurred by any
17 subsequent assignee, transferee, or holder of that evidence of
18 indebtedness on account of the absence of the specified notification.

19 (b) Notwithstanding the presence or absence of that notification
20 and notwithstanding any agreement in which the student waives
21 the right to assert any claim or defense, the institution or registrant
22 making that loan or extending that credit and the transferee,
23 assignee, or holder of that evidence of indebtedness, shall be
24 subject to all defenses and claims that could be asserted against
25 the institution or registrant that was to render or furnish those
26 educational services by any party to that evidence of indebtedness
27 or by the person to whom these educational services were to be
28 rendered or furnished up to the amount remaining to be paid
29 thereon.

30 (c) Institutions or registrants that participate in federal student
31 assistance programs, and that comply with the financial disclosure
32 and notification requirements for those programs, shall be deemed
33 to be in compliance with the standards prescribed by this section.

34 94861. (a) Every institution shall annually publish a catalog,
35 and shall provide this document to students and other interested
36 persons, before enrollment. No written contract signed by the
37 student shall be enforceable unless the following information has
38 been disclosed to the student:

39 (1) The specific beginning and ending dates defining the time
40 period covered by the catalog.

1 (2) A statement of the institution's mission, purpose, and
2 objectives as well as the objectives underlying each of its
3 educational programs.

4 (3) A list of the courses offered in each educational program
5 and a brief description of each course including the length of
6 programs offered.

7 (4) The number of credit hours per unit or units required for
8 completion of the educational degree or certificate program, as
9 defined by Sections 94724 and 94731.

10 (5) The institution's admissions policies including the
11 institution's policies regarding the acceptance of units of credit
12 earned by the student at other institutions or through challenge
13 examinations and standardized tests. If the institution admits
14 students from other countries, it shall disclose the following:

15 (A) Whether English language services, including instruction,
16 are provided and, if so, the nature of the service and its cost.

17 (B) Whether visa services are provided or whether the institution
18 will vouch for student status, and any associated charges.

19 (C) The level of English language proficiency required of
20 students and the kind of documentation of proficiency, such as the
21 Test of English as a Foreign Language (TOEFL) that will be
22 accepted.

23 (6) The institution's policies and procedures for the award of
24 credit for prior experiential learning, including assessment policies
25 and procedures, provisions for appeal, and all charges that a
26 student may be required to pay.

27 (7) The schedule of tuition payments, fees, and all other charges
28 and expenses necessary for the term of instruction and the
29 completion of the program of study.

30 (8) If the student signs an agreement for the entire program,
31 the tuition and all other fees for the total cost of the program shall
32 be detailed. If the student enrolls by the semester or quarter, the
33 catalog shall include: the tuition per unit of credit, the units
34 required per semester or quarter, the number of units required for
35 the degree, a listing of all fees required to be paid and a description
36 of how and when fees are to be paid.

37 (9) The cancellation and refund policies.

38 (10) The institution's policies and practices regarding any form
39 of financial aid, including all consumer information that the

1 institution is required to disclose to the student under any state or
2 federal financial aid program.

3 (11) The institution's standards for student achievement
4 including policy statements for attendance, dropout, and
5 leave-of-absence policies.

6 (12) A description of the facilities and of the types of equipment
7 and materials that will be used for instruction including a
8 disclosure providing the "normal business hours" of the
9 institution's operation.

10 (13) A description of library and other learning resources and
11 the procedures for student access to those resources.

12 (14) A description of all student services including a description
13 of the institution's practices that are designed to foster student
14 interaction for learning purposes, including practices for convening
15 study groups.

16 (15) If an institution represents that it provides employment
17 placement services, including contacts with potential employers,
18 a statement detailing the nature and extent of the placement
19 services and indicating when these services would be available to
20 the student.

21 (16) Policies on student rights, including the procedure for
22 addressing student grievances.

23 (17) If the institution offers instruction by correspondence, the
24 approximate number of days that will elapse between the
25 institution's receipt of student lessons, projects, or dissertations
26 and the institution's mailing of its response or evaluation.

27 (18) The names of each member of the faculty and their
28 individual qualifications to instruct.

29 (19) Housing information shall include whether the institution
30 has dormitory facilities under its control or the availability of
31 housing located reasonably near the institution's facilities and an
32 estimation of the approximate cost or range of cost of the housing.
33 If the institution has no responsibility to find or assist a student in
34 finding housing, the catalog shall include a clear and conspicuous
35 statement so indicating. A statement that the program is "non-
36 residential" does not satisfy this provision.

37 (20) Policies on the retention of student records including the
38 name telephone and address of the Custodian of Records and shall
39 include how long transcripts will be maintained.

1 (21) A description of the student's rights under the Student
2 Tuition Recovery Fund established pursuant to Article 13
3 (commencing with Section 95100).

4 (22) All other material facts concerning the institution and the
5 program or course of instruction that are reasonably likely to
6 affect the decision of the student to enroll, as prescribed by rules
7 and regulations adopted by the board.

8 (b) Annual updates may be made by the use of supplements or
9 inserts accompanying the catalog. If changes in educational
10 programs, educational services, procedures, or policies required
11 to be included in the catalog by statute or regulation are
12 implemented before the issuance of the annually updated catalog,
13 those changes shall be reflected at the time they are made in
14 supplements or inserts accompanying the catalog.

15 (c) If a state board, board, department, or agency has
16 established the minimum number of classes or class hours or the
17 minimum criteria of a course of instruction necessary for licensure
18 in an occupation and an institution offers a course of instruction
19 differing from the state entity's minimum requirements, the
20 institution shall disclose orally and in writing the state entity's
21 minimum requirements and how the course of instruction differs
22 from those criteria. The institution shall make this disclosure before
23 a prospective student executes an agreement obligating that person
24 to pay any money to the institution for the program of instruction.

25 94863. (a) Each institution offering a degree program designed
26 to prepare students for a particular vocational, trade, or career
27 field shall provide to each prospective student, and to the board
28 as part of its data reporting requirements a School Performance
29 Fact Sheet disclosing all of the following information:

30 (1) The number and percentage, by gender and ethnicity, of
31 students who begin the institution's program and successfully
32 complete the entire program as originally scheduled. The rate
33 shall be calculated by determining the number of students enrolled
34 in the program who were originally scheduled, at the time of
35 enrollment, to complete the program in a given calendar year
36 divided into the number who successfully completed the program
37 as scheduled.

38 (A) If the institution has offered the program of instruction for
39 less than one calendar year, the following statement shall be
40 included on the school performance fact sheet: "This program is

1 new. Therefore, the number of students who graduate, the number
2 of students who found jobs, or how much money you can earn after
3 finishing this program is unknown at this time. Contact the
4 institution to obtain the most recent information available.”

5 (B) An institution shall maintain records of the name, address,
6 and telephone number of students who enroll in a program of
7 instruction, including students who begin the program and students
8 who cancel, and of students who graduate from that program of
9 instruction.

10 (2) The passage rates of graduates, by gender and ethnicity, in
11 each program for the most recent calendar year that ended not
12 less than six months before the date of disclosure on any licensure
13 or certificate examination required by the state for employment
14 in the particular vocational, trade, or career field and for any
15 licensing preparation examination for which data is available.

16 (3) The number and percentage, by gender and ethnicity, of
17 students who complete the program and secure employment in the
18 field for which they were trained. In calculating this rate, the
19 institution shall consider as not having obtained employment, any
20 graduate for whom the institution does not possess evidence,
21 documented in his or her file, showing that he or she has obtained
22 employment in the occupation for which the program is offered.

23 (A) An institution shall inquire whether students who complete
24 a program of instruction obtain employment starting within six
25 months of completing the program in the occupation to which the
26 program of instruction is represented to lead and continue in
27 employment for a period of at least 60 days.

28 (B) The inquiry shall be documented by a list indicating each
29 student’s name, address, and telephone number; the employer’s
30 name, address, and telephone number; the name, address, and
31 telephone number of the person who provided the information
32 regarding the student’s employment to the institution; the name,
33 title, or description of the job; the date the student obtained
34 employment; the duration of the student’s employment; information
35 concerning whether the student was employed full-time or part-time
36 including the number of hours worked per week; and the names,
37 addresses, and telephone numbers of students who choose not to
38 seek employment and instead enroll in another program to earn
39 a higher degree, as well as the name and address of the institution
40 in which they enroll. If the student is self-employed, the list shall

1 *include reliable indices of self-employment such as contracts,*
2 *checks for payment, tax returns, social security contribution*
3 *records, records of accounts receivable or customer payments,*
4 *invoices for business supplies, rent receipts, appointment book*
5 *entries, business license, or any other information required by the*
6 *board that is a reliable indicator of self-employment.*

7 *(4) The average annual starting wages or salary of graduates,*
8 *by gender and ethnicity, of each program, if the institution makes*
9 *a claim to prospective students regarding the starting salaries of*
10 *its graduates, or the starting salaries or local availability of jobs*
11 *in a field. The institution shall disclose to the prospective student*
12 *the objective sources of information necessary to substantiate the*
13 *truthfulness of the claim.*

14 *(b) Each school that offers or advertises placement assistance*
15 *for any course of instruction shall file with the board its placement*
16 *statistics for the 12-month period or calendar year immediately*
17 *preceding the date of the school's application for annual review*
18 *for every program of instruction.*

19 *(c) The board shall develop standards and criteria to be used*
20 *by each institution in determining the statistical information*
21 *required by this section.*

22 *(d) The disclosure shall be signed by the institution and the*
23 *student and be dated. If the solicitation or negotiation leading to*
24 *the agreement for a program of instruction was in a language*
25 *other than English, the disclosure shall be in that other language.*

26 **94864. (a) Every institution offering an educational program**
27 **under this chapter shall provide to each prospective student a**
28 **statement in at least 12-point bold type that contains the following**
29 **statement:**

30 *“Transferability of credit(s) significantly depends upon the*
31 *receiving college or university. Students are advised that the*
32 *academic work they complete and that is subsequently reflected*
33 *on a transcript may or may not be accepted by other colleges or*
34 *universities. Any student that is considering attending another*
35 *postsecondary education institution, and in transferring credits,*
36 *should consult with all such institutions under consideration before*
37 *signing this enrollment agreement.”*

38 *(b) The institution may include any affirmative statements of*
39 *actual transfers as reported in their most recent IPEDS or CPEC*
40 *report.*

1 (c) The disclosure shall be signed by the institution and the
2 student and dated. If the solicitation or negotiation leading to the
3 agreement for a program of instruction was in a language other
4 than English, the disclosure shall be in that other language. The
5 institution is not precluded from incorporating this disclosure in
6 the enrollment agreement.

7 94865. (a) The institution shall have and maintain the policy
8 set forth in this article for the refund of the unused portion of
9 tuition fees and other charges if the student does not register for
10 the period of attendance or withdraws from at any time before
11 completion of the courses, or otherwise fails to complete the period
12 of enrollment. The institutional refund policy for students who
13 have completed 60 percent or less of the course of instruction shall
14 be a pro rata refund. For the purpose of this provision, the
15 maximum fee retained by the institution for application and
16 registration fees, combined, shall be no more than one hundred
17 dollars (\$100.00).

18 (b) Except as provided in subdivision (c), the refund shall be
19 calculated as follows:

20 (1) Deduct a registration fee not to exceed one hundred dollars
21 (\$100.00) from the total tuition charge.

22 (2) Divide this figure by the number of hours in the program.

23 (3) The quotient is the hourly charge for the program.

24 (4) The amount owed by the student for the purposes of
25 calculating a refund is derived by multiplying the total hours
26 attended by the hourly charge for instruction plus the amount of
27 the registration fee specified in paragraph (1).

28 (5) The refund shall be any amount in excess of the figure
29 derived in paragraph (4) that was paid by the student.

30 (c) For an educational service offered by distance learning, the
31 refund shall be calculated as follows:

32 (1) Deduct a registration fee not to exceed one hundred (\$100)
33 from the total tuition charge.

34 (2) Divide this figure by the number of lessons in the program.

35 (3) The quotient is the per-lesson charge.

36 (4) The amount owed by the student for the purposes of
37 calculating a refund is derived by multiplying the total number of
38 lessons received by the per-lesson charge calculated in paragraph
39 (3) plus the amount of the registration fee specified in paragraph
40 (1).

1 (5) *The refund shall be any amount in excess of the figure*
2 *derived in paragraph (4) that was paid by the student.*

3 (d) *Institutions subject to federal refund policies shall refund*
4 *to the student the amount of the unused portion of tuition fee and*
5 *other charges based upon the calculation that is monetarily*
6 *equivalent to or greater than the results achieved by the pro rata*
7 *calculations described in subdivisions (a), (b), and (c).*

8 94866. *Institutions, for all students, without penalty or*
9 *obligation, shall refund 100 percent of the amount paid for*
10 *institutional charges, less a reasonable deposit or application fee*
11 *not to exceed one hundred dollars (\$100), if notice of cancellation*
12 *is made before or on the first day of instruction. If the first lesson*
13 *in a distance learning program is sent to the student by mail, the*
14 *institution shall send it by first-class mail, postage prepaid,*
15 *documented by a certificate of mailing, and the student shall have*
16 *the right to cancel until midnight of the eighth business day after*
17 *the first lesson was mailed. The institution shall advise each student*
18 *that any notification of withdrawal or cancellation and any request*
19 *for a refund are required to be made in writing.*

20 94867. *The institution shall pay or credit refunds due on a*
21 *reasonable or timely basis, not to exceed 30 days following the*
22 *date upon which the student's withdrawal has been determined.*

23 94868. *The institution shall publish a current schedule of all*
24 *student charges, a statement of the purpose for those charges, and*
25 *a statement of the cancellation and refund policies with examples*
26 *of the application of the policies, and shall provide the schedule*
27 *to all current and prospective students before enrollment. The*
28 *schedule shall clearly indicate and differentiate all mandatory and*
29 *optional student charges. The institution shall include a clear*
30 *statement written in English describing the procedures that a*
31 *student is required to follow to cancel the contract or agreement*
32 *and obtain a refund. If the institution solicited the student or*
33 *negotiated the agreement in a language other than English, the*
34 *notice to the student shall be in that same language. The schedule*
35 *shall specify the total costs of attendance that shall include, but*
36 *not necessarily be limited to, tuition, fees, assessments for the*
37 *Student Tuition Recovery Fund, equipment costs, housing,*
38 *transportation, books, necessary supplies, materials, shop and*
39 *studio fees, and any other fees and expenses that the student will*

1 incur upon enrollment. The schedule shall clearly identify all
2 charges and deposits that are nonrefundable.

3 94869. (a) Any institution or registrant governed by this
4 chapter extending credit or lending money to any person for tuition,
5 fees, or any charges whatever for educational services to be
6 rendered or furnished shall cause any note, instrument, or other
7 evidence of indebtedness taken in connection with that loan or
8 extension of that credit to be conspicuously marked on the face
9 thereof with the following notice:

10 “NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT
11 CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES
12 THAT THE DEBTOR COULD ASSERT AGAINST THE SELLER
13 OF GOODS OR SERVICES OBTAINED PURSUANT TO THIS
14 CONTRACT OR WITH THE PROCEEDS HEREOF, RECOVERY
15 UNDER THIS CONTRACT BY THE DEBTOR SHALL NOT
16 EXCEED AMOUNTS PAID BY THE DEBTOR UNDER THIS
17 CONTRACT.”

18 (b) If the institution or registrant fails to comply with subdivision
19 (a), it shall be liable for any damage or loss suffered or incurred
20 by any subsequent assignee, transferee, or holder of that evidence
21 of indebtedness on account of the absence of the specified
22 notification.

23 (c) Notwithstanding the presence or absence of that notification
24 and notwithstanding any agreement in which the student waives
25 the right to assert any claim or defense, the institution or registrant
26 making that loan or extending that credit and the transferee,
27 assignee, or holder of that evidence of indebtedness, shall be
28 subject to all defenses and claims that could be asserted against
29 the institution or registrant that was to render or furnish those
30 educational services by any party to that evidence of indebtedness
31 or by the person to whom these educational services were to be
32 rendered or furnished up to the amount remaining to be paid
33 thereon.

34 94870. If the refund calculations set forth in this article cannot
35 be utilized because of the unique way in which an educational
36 program is structured, the board shall determine the details of an
37 alternative refund policy, by regulation, and shall take into
38 consideration the contract for educational services entered into
39 with the student, as well as the length and character of the

1 *educational program in determining standards for refunds. The*
2 *decision of the board shall be final.*

3 *94871. In addition to withholding institutional services as*
4 *described in Section 94948, an institution or registrant may*
5 *withhold a student's transcript or grades if the student is in default*
6 *on a student tuition contract. If the student has made partial*
7 *payment of his or her tuition obligation, the institution or registrant*
8 *may only withhold that portion of the grades or transcript that*
9 *corresponds on a pro rata basis to the amount of tuition or loan*
10 *obligation the student has not paid. If the course of study consists*
11 *of only one course, the institution or registrant may withhold the*
12 *grades or the transcript until the tuition or loan obligation is paid*
13 *in full.*

14 *94872. The approval to operate shall be issued to the owners*
15 *or the governing body of the applicant institution, and shall be*
16 *nontransferable. Any person that makes a proper application and*
17 *complies with this chapter and each standard and regulation*
18 *pertaining to this chapter shall be qualified to receive an approval*
19 *to operate or an approval of the transfer of ownership. Institution*
20 *status and compliance with this chapter shall continue to apply to*
21 *an institution notwithstanding a change in the institution's*
22 *ownership, name, or identification number.*

23 *94873. Every institution or registrant shall designate and*
24 *maintain an agent for service of process within this state and*
25 *provide the name, address, and telephone number of the agent to*
26 *the board. The board shall furnish the agent's name, address, and*
27 *telephone number to any person upon request. The address*
28 *provided for the agent for service of process shall not be a post*
29 *office box and it shall not be the same address as the institution*
30 *or registrant's primary administrative location.*

31 *94874. (a) If an institution or registrant is not operating in*
32 *California when it applies for approval to operate, the institution*
33 *or registrant shall set forth the name, address, and telephone*
34 *number of its agent for service of process in the institution's*
35 *application.*

36 *(b) If an institution or registrant fails to designate or maintain*
37 *an agent for service of process pursuant to subdivision (a) and if*
38 *service on the institution or registrant cannot reasonably be*
39 *effected in the manner provided in Section 415.10, 415.20, 415.30,*
40 *or 415.40 of the Code of Civil Procedure, the institution or*

1 registrant may be served by leaving a copy of the process or any
2 other document within the board and by sending, by first-class
3 mail, a notice of the service upon the board and a copy of the
4 process or other document to the institution or registrant at its
5 last address on file with the board. Service in this manner shall
6 be deemed complete on the 10th day after that mailing to the
7 institution or registrant. Proof of service may be made by a
8 declaration showing compliance with this subdivision.

9 94875. Institutions that provide a specific program of study
10 where the students will need program approval by a specific
11 authority or agency for the students to take an exam for
12 certification, licensure or other similar approval allowing the
13 student to perform services in the field of study, shall disclose to
14 the student if the school is not approved. Additionally, the
15 institution shall disclose any action plan and timeline for the
16 program to be approved.

17 94876. (a) Every institution shall meet all of the following
18 performance standards for each program offered during the
19 applicable time period described in this subdivision:

20 (1) Sixty percent or more of the students who began the program,
21 did not cancel pursuant to Section 94858, and were originally
22 scheduled at the time of enrollment to complete the course during
23 that period, shall complete it.

24 (2) Seventy percent or more of the students who completed the
25 program within that period shall obtain employment starting within
26 six months after completing the course in the occupations or job
27 titles to which the course of instruction was represented to lead.
28 For the purpose of this subdivision, “program” or “program of
29 instruction” or “course” or “course of instruction” includes all
30 courses of instruction, however denominated, that are represented
31 to lead to the same or closely related occupations or job titles.

32 (b) Every institution shall meet all of the following performance
33 standards for all programs in the aggregate offered by the
34 institution at each of its campuses during the applicable time period
35 described in this subdivision:

36 (1) Sixty percent or more of all the students who began the
37 programs did not cancel pursuant to Section 94858, and were
38 originally scheduled at the time of enrollment to complete these
39 programs during that time period, shall complete these programs.

1 (2) *Seventy percent or more of all the students who completed*
2 *the programs within that time period shall obtain employment,*
3 *starting within six months after completing the programs, in the*
4 *occupations or job titles to which the programs of instruction were*
5 *represented to lead.*

6 (c) *For the purposes of subdivisions (a) and (b), students who,*
7 *as documented by the institution, have been prevented from*
8 *completing the program or programs of instruction due to death,*
9 *disability, illness, pregnancy, military service, or participation in*
10 *the Peace Corps or Domestic Volunteer Service shall be excluded*
11 *from the computations used to determine whether an institution*
12 *has met the performance standards prescribed by those*
13 *subdivisions. Except as provided in Section 94874, an institution*
14 *shall not disclose the records maintained pursuant to this*
15 *subdivision unless production of those records are required by*
16 *any law, subpoena, or court order, or are necessary for a certified*
17 *public accountant to prepare a compliance report pursuant to*
18 *subparagraph (G) of paragraph (2) of subdivision (f).*

19 (d) *An institution shall meet the standards prescribed in*
20 *subdivisions (a) and (b) at each site at which the program or*
21 *programs are offered. A determination of whether a particular*
22 *site meets the standards prescribed in subdivisions (a) and (b)*
23 *shall be based only on students who attended that site. An*
24 *institution shall be subject to subdivisions (f) and (g) only with*
25 *respect to its sites that fail to meet the standards prescribed in*
26 *subdivisions (a) and (b).*

27 (e) (1) *This subdivision applies only to institutions in which 15*
28 *or fewer students began a program or programs, did not cancel*
29 *pursuant to Section 94858, and were originally scheduled to*
30 *complete the program or programs within the applicable time*
31 *period described in subdivision (a) or (b).*

32 (2) *If an institution described in paragraph (1) fails to meet any*
33 *of the standards prescribed in subdivision (a) or (b), but would*
34 *have met that standard if one additional student had completed or*
35 *obtained employment, the institution shall be deemed to comply*
36 *with this section. If an institution described in paragraph (1) fails*
37 *to meet the standard for review established in subdivision (f), but*
38 *would have met the standard if one additional student had*
39 *completed or obtained employment, the institution shall be deemed*
40 *subject to subdivision (f).*

- 1 (f) (1) *This subdivision applies only to an institution or any site*
2 *that fails to meet any of the following:*
- 3 (A) *Any of the standards established in subdivision (a) or (b)*
4 *by 10 percent or less.*
- 5 (B) *Any of the standards established in subdivision (a), but has*
6 *a placement rate of 42 percent or more for the course in which*
7 *the standard was failed.*
- 8 (C) *Any of the standards established in subdivision (b), but has*
9 *a placement rate of 42 percent or more for all courses in the*
10 *aggregate.*
- 11 (2) *If the institution's failure to meet the standards prescribed*
12 *in subdivision (a) or (b) was not caused by a violation of this*
13 *chapter, the board shall order, after notice and, if requested, after*
14 *a hearing, that the institution implement a program to achieve*
15 *compliance with subdivisions (a) and (b). The program may include*
16 *any of the following:*
- 17 (A) *Limitations on enrollment for specific courses of instruction.*
- 18 (B) *Revision of admission policies and screening practices to*
19 *ensure that students have a reasonable expectation of completing*
20 *courses and obtaining employment.*
- 21 (C) *Increased academic counseling and other student support*
22 *services.*
- 23 (D) *Improved curricula, facilities, and equipment.*
- 24 (E) *Revisions to the qualifications and number of faculty.*
- 25 (F) *Improved job placement services, including revisions to the*
26 *qualifications and number of job placement personnel and the*
27 *expansion of contacts with employees and state and federal*
28 *employment development agencies.*
- 29 (G) *Submission of a compliance report prepared by a certified*
30 *public accountant, who is not an officer, director, shareholder, or*
31 *employee of the institution, any parent corporation or any*
32 *subsidiary, prepared pursuant to an attestation engagement in*
33 *accordance with the Statements on Standards for Attestation*
34 *Engagements of the American Institute of Certified Public*
35 *Accounts, that states that the institution has complied with the*
36 *performance standards in this section within the period set forth*
37 *in paragraph (4).*
- 38 (H) *Any other reasonable procedure required by the board.*
- 39 (3) *If an institution is subject to an order pursuant to paragraph*
40 *(2), the board may require that the institution file information or*

1 reports requested by the board. The board may also monitor the
2 institution as provided in Article 12 (commencing with Section
3 95070).

4 (4) (A) An institution subject to an order pursuant to paragraph
5 (2) shall satisfy the standards established in subdivisions (a) and
6 (b) within the period designated by the board. This period shall
7 not extend more than one year beyond the length of the program
8 for noncompliance with the standards prescribed by subdivision
9 (a) or more than one year beyond the longest program for
10 noncompliance with the standards prescribed in subdivision (b).

11 (B) If the institution fails to satisfy the standards of subdivision
12 (a) within the period designated by the board, the board shall
13 order the institution to cease offering the course of instruction at
14 the campus where that program was offered. If the institution fails
15 to satisfy the standards of subdivision (b) within the period
16 designated by the board, the board shall revoke the institution's
17 approval to operate, or approval to operate the branch or satellite
18 campus where the programs were offered. No action shall be taken
19 pursuant to this paragraph without notice, and, if requested by
20 the institution, a hearing. In taking action pursuant to this
21 subparagraph, the board shall consider the impact, if any, of
22 changes in the employment rate in the area served by this
23 institution.

24 (g) If an institution fails to meet any of the standards established
25 in subdivision (a) and does not have a placement rate of 42 percent
26 or more for the program in which the standard was failed, the
27 board shall order the institution to cease offering the program of
28 instruction at the campus where the course was offered. If the
29 institution fails to meet any of the standards prescribed in
30 subdivision (b) and does not have a placement rate of 42 percent
31 or more for all programs in the aggregate, the board shall revoke
32 the institution's approval to operate, or approval to operate the
33 branch or satellite campus where the programs were offered. No
34 action shall be taken pursuant to this subdivision without notice
35 and, if requested by the institution, a hearing.

36 (h) (1) The institution shall have the burden of proving its
37 compliance with this section.

38 (2) The board shall investigate the institution as the board deems
39 appropriate to verify the institution's compliance with this section.
40 The investigation shall include an examination of the records

1 maintained by the institution pursuant to subdivision (j) and
2 contacts with the students and employers.

3 (3) If an institution willfully falsifies, alters, destroys, conceals,
4 or provides untrue or misleading information relating to
5 compliance with this section, including records maintained
6 pursuant to subdivision (j), the board shall revoke the institution's
7 approval to operate. No action shall be taken pursuant to this
8 paragraph without notice and, if requested by the institution, a
9 hearing. This provision supplements but does not supplant any
10 other penalty or remedy provided by law.

11 (4) The institution shall pay all reasonable costs and expenses
12 incurred by the board in connection with this section at a time
13 designated by the board.

14 (i) If the board, pursuant to subdivision (f) or (g), orders an
15 institution to cease offering a program of instruction or revokes
16 the approval of an institution to operate or operate a branch or
17 satellite campus, the institution may apply, no sooner than two
18 years after the date the order to cease or the revocation became
19 effective, for approval to offer that program or for approval to
20 operate. Before the board may grant any approval, the institution
21 shall establish that it complies with this chapter, each program
22 satisfies all of the minimum standards prescribed by this chapter,
23 and the circumstances surrounding the institution's failure to meet
24 the requirements of this section have sufficiently changed so that
25 the institution will be substantially likely to comply with this
26 section.

27 (j) An institution shall maintain records of the name, address,
28 and telephone number of students who enroll in a program of
29 instruction, including students who begin the program and students
30 who cancel pursuant to Section 94858, and of students who
31 graduate from that program of instruction. An institution shall
32 inquire whether students who complete a program of instruction
33 obtain employment starting within six months of completing the
34 program in the occupation to which the program of instruction is
35 represented to lead and continue in employment for a period of at
36 least 60 days. The inquiry shall be documented by a list indicating
37 each student's name, address, and telephone number; the
38 employer's name, address, and telephone number; the name,
39 address, and telephone number of the person who provided the
40 information regarding the student's employment to the institution;

1 *the name, title, or description of the job; the date the student*
2 *obtained employment; the duration of the student’s employment;*
3 *information concerning whether the student was employed full-time*
4 *or part-time including the number of hours worked per week; and*
5 *the names, addresses, and telephone numbers of students who*
6 *choose not to seek employment and instead enroll in another*
7 *program to earn a higher degree, as well as the name and address*
8 *of the institution in which they enroll. If the student is*
9 *self-employed, the list shall include reliable indices of*
10 *self-employment such as contracts, checks for payment, tax returns,*
11 *social security contribution records, records of accounts receivable*
12 *or customer payments, invoices for business supplies, rent receipts,*
13 *appointment book entries, business license, or any other*
14 *information required by the board that is a reliable indicator of*
15 *self-employment.*

16 *(k) For the purposes of this section, the following definitions*
17 *shall apply:*

18 *(1) “Annual report” means the report required to be filed*
19 *pursuant to Section 94802.*

20 *(2) (A) “Employment” means either of the following:*

21 *(i) Full-time employment with a single employer for at least 32*
22 *hours per week for a period of at least 60 days in the occupations*
23 *or job titles to which the program of instruction is represented to*
24 *lead.*

25 *(ii) Part-time employment with a single employer for at least*
26 *17.5 hours, but less than 32 hours, per week for a period of at least*
27 *60 days in the occupations or job titles to which the program of*
28 *instruction is represented to lead, provided that the student*
29 *completes a handwritten statement at the beginning of the program*
30 *and at the end of the program that states that the student’s*
31 *educational objective is part-time employment. The institution*
32 *shall not require that any student complete such a statement or*
33 *provide any incentive, financial or otherwise, to any student for*
34 *signing such a statement.*

35 *(B) The board shall adopt regulations to specify the job tasks,*
36 *other than those directly related to generating income, that may*
37 *be counted towards meeting the hour requirements for full-time*
38 *and part-time employment for students who are self employed.*

39 *(3) “Hearing” means a hearing as defined in Section 94741.*

1 (4) “Placement rate” means the percentage of students who
2 fulfilled both of the following conditions:

3 (A) Began the program, did not cancel pursuant to Section
4 94858, and were originally scheduled at the time of enrollment to
5 complete the program during the applicable time period described
6 in subdivision (l).

7 (B) (i) Completed the program, within the applicable time
8 period described in subdivision (l) and started employment within
9 six months of completing the program or, if employment requires
10 taking a state licensure examination for which only graduates of
11 the program may apply, then did either of the following:

12 (I) Started employment within six months of the date on which
13 the state licensing agency announces the results of the first
14 licensure examination reasonably available to students who
15 completed the program.

16 (II) Started employment within six months of the next reasonably
17 available licensure examination date for any student who did not
18 receive passing results on the first exam.

19 (ii) The time period determined pursuant to this subparagraph
20 shall not exceed 10 months beyond the date of completion of the
21 program of instruction. The institution shall retain a record of the
22 date of the first reasonably available licensure exam following the
23 completion date of each student, the date the licensure agency
24 announces the results of the first reasonably available licensure
25 exam, and the date of the next reasonably available licensure exam
26 for each student who did not pass the first exam.

27 (5) “Reporting period” means the institution’s fiscal year or
28 any year period designated by the board to be covered in the
29 institution’s annual report.

30 (6) “Time period” means the two most recent calendar years
31 that ended at least eight months before the end of the institution’s
32 applicable reporting period.

33 (l) (1) An institution’s compliance with the standards prescribed
34 in subdivisions (a) and (b) shall be determined as of the date on
35 which the institution’s reporting period ends.

36 (2) The institution shall report its determination of its
37 compliance with the standards established in subdivisions (a) and
38 (b) in each annual report.

39 (3) The board may adjust the meaning of “time period,” if the
40 board finds that an adjustment is necessary for the efficient

1 administration of this section. If any adjustment is made in the
2 annual reporting periods, the board may adjust when the time
3 period commences, but shall not alter the two-year length of the
4 period.

5 (m) In determining the placement rate for a particular time
6 period as described in subdivision (l), an institution may exclude
7 from the determination a student whose completion date was
8 extended beyond that time period if the extension was requested
9 by the student in writing on an enrollment agreement modification
10 request form that meets specifications established by the board.
11 The form shall include instructions to the student indicating that,
12 when signed by both the student and the institution, the request
13 modifies the existing agreement. The form shall not be valid unless
14 it provides space for the student to complete a handwritten
15 description, in the student's handwriting, of the reasons
16 necessitating the extension that are distinctly personal to the
17 student and unrelated to the provision of educational services or
18 activities of the institution, contains the new expected completion
19 date of the program, and is signed and dated by the student and
20 the institution. The institution shall provide the student a copy of
21 the signed modification request form. The institution shall retain
22 the student's original written request to modify the enrollment
23 agreement with the original enrollment agreement. A student
24 excluded from the placement rate determination for a particular
25 time period pursuant to this subdivision shall be included in the
26 placement rate determination for the next immediately following
27 time period. The institution shall state in the institution's annual
28 report the number of students for whom an extension was granted.

29 (n) In determining the placement rate for a particular time
30 period as described in subdivision (l), an institution may exclude
31 from the calculation a student who either:

32 (1) Decides not to obtain employment and, within six months
33 of completing the program, enrolls in a program to continue his
34 or her education to obtain a higher level degree that is related to,
35 or provides for the student to use, the same skills or knowledge
36 obtained in the program the student completed.

37 (2) Is in possession at the completion of the program of a valid
38 United States Immigration and Naturalization Service Form I-20.

39 (o) In determining the placement rate for a particular time
40 period as described in subdivision (l), an institution may count a

1 student who drops out of the program after completing at least 75
2 percent of the program because the student has obtained
3 employment that lasts for a period of at least 60 days in the
4 occupations or job titles to which the program of instruction is
5 represented to lead. No more than 10 percent of the institution's
6 total number of placed students may be counted pursuant to this
7 subdivision.

8 (p) If an order to cease offering a program or a revocation is
9 issued pursuant to this section, the board may permit the institution
10 to continue to offer the program or programs of instruction to the
11 students who had begun the course or courses before the effective
12 date of the order or revocation or may order the institution to
13 cease instruction and provide a refund of tuition and all other
14 charges to students.

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Article 7. Standards

18 94900. No private postsecondary educational institution may
19 issue, confer, or award a professional, academic or honorary
20 degree, unless the institution is approved by the board to operate.
21 The board shall not issue an approval under Article 8 (commencing
22 with Section 94950) until it has conducted a qualitative review
23 and assessment of, and has approved, each degree program offered
24 by the institution, and all of the operations of the institution, and
25 has determined all of the following:

26 (a) The institution has the facilities, financial resources,
27 administrative capabilities, faculty, and other necessary
28 educational expertise and resources to ensure its capability of
29 fulfilling the program or programs for enrolled students.

30 (b) The faculty is fully qualified to undertake the level of
31 instruction that they are assigned and shall possess degrees or
32 credentials appropriate to the degree program they teach and have
33 demonstrated professional achievement in the major field or fields
34 offered, in sufficient numbers to provide the educational services.

35 (c) The education services and curriculum clearly relate to the
36 objectives of the proposed program or programs and offer students
37 the opportunity for a quality education.

38 (d) The facilities are appropriate for the defined educational
39 objectives and are sufficient to ensure high quality educational
40 services to the students enrolled in the program or programs.

1 (e) If an institution represents that a program leads to
2 employment, the quality, content, and instruction of the program
3 shall be sufficient to ensure that students may acquire the necessary
4 level of education, training, skill, and experience to obtain
5 employment in the occupation or job title to which the program
6 of instruction is represented to lead.

7 (f) The institution provides adequate student advisement
8 services, academic planning and curriculum development activities,
9 research supervision for students enrolled in Ph.D. programs, and
10 clinical supervision for students enrolled in various health
11 profession programs.

12 (g) If the institution offers credit for prior experiential learning
13 it may do so only after an evaluation by qualified faculty and only
14 in disciplines within the institution's curricular offerings that are
15 appropriate to the educational program to be pursued.

16 (h) The institution maintains for at least five years written
17 records of each student's previous education for which credit was
18 granted.

19 (i) A copy of the course outlines, description of the occupations
20 or job titles, if any, to which the course of instruction is represented
21 to lead.

22 (j) The institution maintains and enforces adequate standards
23 relating to, and maintains records of, attendance, satisfactory
24 academic progress, and student performance to achieve the
25 objective described in subdivision (e).

26 (k) The institution complies with all local city, county, municipal,
27 state, and federal regulations relative to the safety and health of
28 all persons upon the premises such as fire, building, and sanitation
29 codes. The board may require evidence of compliance.

30 (l) Application for approval shall be made in writing on forms
31 prescribed by the board.

32 94901. (a) Each institution shall have a written statement of
33 its mission, purposes, and objectives that clearly exemplify its
34 educational reasons to exist. The mission, purposes, and objectives
35 shall indicate the kind of education offered, for whom the
36 instruction is intended and the expected outcomes for graduates.
37 The institution shall document that its educational programs and
38 educational programs are based on its stated mission, purposes,
39 and objectives, and that its facilities and equipment, financial
40 resources, administrative capabilities, faculty, library and other

1 *learning resources, and student services are sufficient to achieve*
2 *its stated mission, purposes, and objectives. The mission shall have*
3 *both of the following characteristics:*

4 *(1) The mission shall include the institution's broad expectations*
5 *concerning the education that students will receive, including the*
6 *acquisition of the body of knowledge presented in the educational*
7 *program, the development of intellectual, analytical, and critical*
8 *abilities, and the fostering of values such as a commitment to*
9 *pursue lifelong learning.*

10 *(2) The mission shall relate to the educational expectations of*
11 *the institution's students and faculty and the community served by*
12 *the institution.*

13 *(b) The institution's objectives shall clearly describe how the*
14 *institution will transform its mission into measurable student*
15 *learning outcomes. The purposes or goals established by each*
16 *institution shall describe the methods or educational emphases*
17 *chosen by an institution to fulfill its mission. The institution's*
18 *purposes relate to why the institution was founded, its particular*
19 *point of view, its unique or special character, and its relationship*
20 *to the community it serves.*

21 *94902. (a) Each owner, director, and administrator of an*
22 *institution shall expend or authorize the expenditure of the*
23 *institution's assets and funds, including tuition, fees, and other*
24 *charges collected from or on behalf of students, in a diligent and*
25 *prudent manner to ensure that students receive the education and*
26 *student services that were represented to the students and that*
27 *meet the requirements of this chapter.*

28 *(b) Each owner, director, and administrator of an institution*
29 *has the duty to act in the utmost good faith to take all reasonable*
30 *steps within his or her capacity to cause the institution to comply*
31 *with all applicable law and to correct the effects of noncompliance.*

32 *(c) Each owner, director, and administrator of an institution*
33 *shall immediately disclose to the board evidence that the institution*
34 *or any person connected with the institution has engaged in fraud,*
35 *misrepresentation, misappropriation of funds, or any violation of*
36 *law prosecutable as a felony, except that no disclosure is required*
37 *of any matter privileged under Section 940 of the Evidence Code.*

38 *94903. (a) The curriculum shall present those subject areas*
39 *that are necessary for a student to achieve the educational*
40 *objectives of the educational program in which the student is*

1 enrolled. The institution shall maintain a course outline for each
2 course offered.

3 (b) Graduation requirements for undergraduate degree
4 programs shall include provisions for general education
5 appropriate to the level and type of degree.

6 (1) Associate degrees shall be awarded only to students who
7 complete at least the learning outcomes equivalent to a minimum
8 of 60 semester units or 90 quarter units of credit.

9 (A) The Associate in Arts and Associate in Science degrees may
10 be awarded only to students whom the institution can document
11 have achieved sequential learning equivalent in breadth of
12 knowledge and understanding (i.e., general education) to that
13 acquired in two years of college study beyond high school, as
14 measured by a minimum of 60 semester units or its equivalent in
15 other units of credit.

16 (i) Academic associate degrees shall designate at least 25
17 percent of the requirements for the associate degree and the
18 bachelor's degree shall be in general education. General education
19 offered as part of these programs shall be necessary for a student
20 to achieve the educational objectives of the program in which he
21 or she is enrolled.

22 (ii) General education shall also be at the same level of quality
23 as that taught in bachelor's or associate degree programs that are
24 approved pursuant to Article 8 (commencing with Section 94950).

25 (iii) General education shall consist of courses and other
26 organized educational activities designed to introduce students to
27 each of the major divisions of formal learning such as the natural
28 sciences, the social sciences, the humanities, the skills of writing
29 and speaking, and mathematics. The institution shall specify the
30 distribution of general education requirements by subject area for
31 each undergraduate degree program.

32 (B) The Associate of Occupational Studies or Associate of
33 Applied Science degree shall designate a minimum of 75 percent
34 of the curriculum shall be in the occupational area for which
35 training is offered. Currently approved institutions that have been
36 approved to offer vocational degree programs with degree titles
37 that are not designated as either an Associate of Occupational
38 Studies or Associate of Applied Science shall have until January
39 1, 2010, to comply with this section.

1 (2) *The bachelor's degree may be awarded to students who the*
2 *institution can document have achieved sequential learning*
3 *equivalent in breadth of knowledge and understanding (i.e., general*
4 *education) and equivalent in depth of achievement in a designated*
5 *major field to that acquired in four years of study beyond high*
6 *school, as measured by a minimum of 120 semester units or its*
7 *equivalent in other units of credit.*

8 (3) *The master's degree may only be awarded to students who*
9 *demonstrate at least the achievement of learning in a designated*
10 *major field that is equivalent in depth to that normally acquired*
11 *in a minimum of 30 semester units or its equivalent in other units*
12 *of credit or one year of study beyond the bachelor's degree.*

13 (A) *No more than 25 percent of the units required for graduate*
14 *degree programs may be awarded for a final product such as a*
15 *thesis, dissertation, or product.*

16 (B) *Dissertations, theses, and other work products submitted*
17 *by students as part of a graduate program shall be signed by all*
18 *faculty members recommending the student for an award of a*
19 *degree.*

20 (4) *Doctorate degrees may be awarded only to students who*
21 *have completed a prescribed level of study normally requiring a*
22 *minimum of three academic years of full-time graduate study or*
23 *the equivalent in part-time study; or, if the program leads to a*
24 *profession or occupation requiring state licensure, who satisfy the*
25 *requirements of the state agency.*

26 (A) *Programs leading to doctorate degree shall include*
27 *substantial instruction in both theory and research at advanced*
28 *levels in a designated field and specialty. Each educational*
29 *program leading to a doctorate degree shall involve preparation*
30 *for scholarship and systematic inquiry that includes research*
31 *methodology and who have demonstrated learning achievement*
32 *through original research directly attributable to the student.*

33 (B) *Each doctorate program shall include a minimum of two*
34 *formal evaluations of the student by a doctoral committee.*

35 (i) *The first evaluation shall consider the student's*
36 *qualifications, including the student's knowledge, skills, and*
37 *conceptual framework, for undertaking rigorous inquiry into the*
38 *student's designated field.*

1 (ii) *The second evaluation shall consider the design procedures*
2 *and products of a formal original inquiry proposed and completed*
3 *by the student.*

4 (C) *The doctoral committee shall be composed of at least three*
5 *members of the institution's own faculty. The faculty who serve*
6 *on each student's doctoral examining committee shall comply with*
7 *Section 94905.*

8 (D) *The formal evaluation procedures shall provide the*
9 *committee as a whole with the opportunity to jointly examine the*
10 *candidate. If the candidate is not physically present and the*
11 *evaluation shall take place by telephone or other means of*
12 *electronic communication, one of the following shall apply:*

13 (i) *One faculty member on the student's doctoral committee*
14 *from the main location in the state in which the program is licensed*
15 *or otherwise officially approved shall be present at the location*
16 *where the doctoral student is examined.*

17 (ii) *A proctor, selected and approved by the doctoral committee,*
18 *shall sit as an observer with the student at the distant location and*
19 *verify, under penalty of perjury under the laws of the State of*
20 *California, the identity of the student and the facts that the student*
21 *received no prompting by anyone and did not have access to*
22 *unallowed materials during the evaluation process.*

23 (E) *If a project includes more than one student, the individual*
24 *student's role and contributions shall be clearly identified and*
25 *documented.*

26 (F) *The institution shall maintain a written record of the*
27 *evaluations. This record shall include the names and signatures*
28 *of all committee members who participated in the evaluations.*

29 (c) *If an institution applying for approval seeks board approval*
30 *to offer a degree in an emerging new field of study, the institution*
31 *shall submit written documentation establishing that the field of*
32 *study is based on new or unique applications of information derived*
33 *from established principles, theories, and bodies of knowledge*
34 *from disciplines generally recognized in higher education. The*
35 *board recognizes that new or unique applications of information*
36 *may be stimulated by a variety of sources including new social*
37 *and economic trends.*

38 (1) *If the institution establishes that the subject matter area is*
39 *appropriate for instruction or instruction leading to a degree, the*
40 *director shall include on the visiting committee professional*

1 *educators with expertise, as described in paragraph (2) of*
2 *subdivision (d), to evaluate the institution's proposed offer of*
3 *instruction or a degree program in the emerging new field of study.*

4 *(2) If the board grants approval to the institution to offer a*
5 *degree in an emerging field of study, the institution shall disclose*
6 *in its catalog and a separate written notice provided to students*
7 *before enrollment that the educational service in the emerging*
8 *new field and will have limited, if any, transferability, to other*
9 *institutions because of the nature of the emerging subject matter.*

10 *(d) If an institution seeks approval to award a degree in an*
11 *emerging field of study, the institution shall comply with*
12 *subdivision (c) and submit to the board documentation, including*
13 *research, publications, written curriculum, and course materials,*
14 *establishing to the reasonable satisfaction of the board and a*
15 *special committee appointed by the executive director that the*
16 *emerging field of study should be recognized as a discipline for*
17 *degree study in higher education. The special committee shall*
18 *consist of a team of professional educators in disciplines related*
19 *to the emerging new field that are affiliated with accredited or*
20 *board-approved degree granting institutions.*

21 *94904. Instruction shall be the central focus of the resources*
22 *and services of the institution. The institution shall document that*
23 *the instruction offered leads to the achievement of the learning*
24 *objectives of each course.*

25 *(a) Direct instruction requires the physical presence of one or*
26 *more students and one or more faculty members at the same*
27 *location. Direct instruction includes instruction presented in a*
28 *classroom, seminar, workshop, lecture, colloquium, laboratory,*
29 *tutorial, or other physical learning settings consistent with the*
30 *mission, purposes, and objectives of the institution.*

31 *(b) Indirect instruction does not require the physical presence*
32 *of students and faculty at the same location but provides for*
33 *interaction between students and faculty by such means as*
34 *telecommunication, correspondence, electronic and computer*
35 *augmented educational services, postal service, and facsimile*
36 *transmission.*

37 *(c) An institution offering a degree program by correspondence*
38 *instruction shall comply with all of the following:*

1 (1) *The institution shall mail the first lesson and the initial*
2 *correspondence material to the student within seven days after the*
3 *institution accepts the student for admission.*

4 (2) *The student shall have the right to cancel the agreement and*
5 *receive a full refund before the first lesson and initial*
6 *correspondence material are received. Cancellation is effective*
7 *on the date written notice of cancellation is mailed. The institution*
8 *shall make the refund within 30 days of cancellation. If the*
9 *institution sent the first lesson and materials before an effective*
10 *cancellation notice was received, the institution shall make a refund*
11 *within 30 days after the student's return of the correspondence*
12 *material.*

13 (3) *An institution shall mail all of the lessons and other material*
14 *to the student if the student has fully paid for the program and*
15 *requests all of the material in writing after having received the*
16 *first lesson and initial correspondence material.*

17 (4) *If an institution mails the balance of the material as the*
18 *student requests, the institution shall remain obligated to provide*
19 *the other educational services it agreed to provide, such as*
20 *responses to student inquiries, student and faculty interaction, and*
21 *evaluation and comment on lessons submitted by the student but*
22 *shall not be obligated to pay any refund after all of the lessons*
23 *and material are mailed.*

24 (d) *The institution shall notify the board 30 days before the*
25 *discontinuation of an educational program and immediately upon*
26 *the decision to eliminate any instruction or other educational*
27 *service offered by the institution.*

28 (e) *If an institution proposes to use innovative or unique methods*
29 *of instruction in degree programs, the institution shall demonstrate*
30 *to the reasonable satisfaction of the board and a special committee*
31 *appointed by the executive director that the proposed method has*
32 *a demonstrable value as a method of delivering concepts and*
33 *information, leads to the measurable learning outcomes stated by*
34 *the institution, and is clearly explained to the students before their*
35 *enrolling in the course in which the method will be used.*

36 94905. (a) *Faculty shall possess adequate academic,*
37 *experiential, and professional qualifications to teach the course*
38 *or to perform the duties that the person is assigned, and shall*
39 *satisfy all standards established by the board. Each institution*
40 *shall employ or contract with qualified faculty sufficient in number*

1 to provide the instruction, student advisement, and learning
2 outcomes necessary for the institution to document its achievement
3 of its stated mission, purposes, and objectives and effectuate the
4 learning objectives for each student enrolled. The majority of the
5 institution's faculty shall possess a diverse educational
6 background, that shall be demonstrated in part by earned degrees
7 from a variety of colleges and universities or by credentials
8 generally recognized in the field of instruction.

9 (b) When employing or contracting for educational services,
10 the institution shall maintain control of, and responsibility for, all
11 academic matters, and shall ensure that the instruction and faculty
12 satisfy the standards established by this chapter.

13 (c) Faculty shall have all of the following qualifications:

14 (1) Faculty shall possess a degree from an institution approved
15 or authorized by the Superintendent of Public Instruction, approved
16 by the former council or bureau, currently approved by the Board
17 for Private Postsecondary Education, or a public or private
18 institution that is accredited by an agency recognized by the United
19 States Department of Education. Faculty that possess earned
20 degrees from institution outside of the United States shall be
21 graduates from institutions recognized by their government and
22 their transcripts shall be translated into English and be evaluated
23 by the American Association of Collegiate Registrars and
24 Admissions Officers (AACRAO) or a member of the National
25 Association of Credential Evaluation Services (NACES) to
26 determine the equivalency of the degree to those degrees awarded
27 in the United States from institutions accredited by an agency
28 recognized by the United States Department of Education or
29 approved by the Board of Private Postsecondary Education.

30 (2) Faculty teaching in undergraduate degree programs shall
31 possess a bachelor's degree, at a minimum.

32 (3) Faculty teaching academic general education and other
33 academic courses shall possess at a minimum fifteen semester or
34 equivalent credit hours of coursework successfully completed from
35 undergraduate or graduate degrees in the subject area they are
36 assigned to instruct.

37 (4) Faculty teaching technical and occupationally related
38 courses, including applied general education, shall have a
39 minimum of three years of related practical experience in the
40 subject areas taught.

1 (5) Faculty teaching in master's level degree programs shall
2 possess a graduate degree, at a minimum. Fifty percent of the
3 faculty assigned to teach a master's degree program shall possess
4 terminal degrees. Professional certification is not an appropriate
5 alternative or a terminal degree.

6 (6) Faculty teaching in doctorate level degree programs shall
7 possess a doctorate degree, at a minimum. Fifty percent of the
8 faculty assigned to teach a doctorate degree program shall possess
9 terminal degrees from institutions accredited by an accrediting
10 association recognized by the United State Department of
11 Education. Professional certification is not an appropriate
12 alternative or a terminal degree.

13 (i) Faculty shall have been active in their field of scholarship
14 or profession within the five-year period preceding their contract
15 to instruct in doctoral programs.

16 (ii) Following the acquisition of a doctorate degree, faculty
17 shall have three or more years of field or research experience
18 related to their earned doctorate degree.

19 (7) Faculty for a program that leads to licensure shall possess
20 at least three years' experience in the occupation or job title
21 category for which the licensure is sought.

22 (8) No person shall serve as faculty if that person has been
23 convicted of, or has pled *nolo contendere* or guilty to, a crime
24 involving the acquisition, use, or expenditure of federal or state
25 funds, or who has been judicially or administratively determined
26 to have committed any violation of this chapter or of any law
27 involving state or federal funds, or committed any act that would
28 constitute grounds for the denial of a license under Section 480
29 of the Business and Professions Code.

30 (c) The institution shall maintain current records for a period
31 of not less than five years at its principal place of business in
32 California, that are immediately available during normal business
33 hours for inspection and copying by the board or the Attorney
34 General and showing all of the following:

35 (1) The names and addresses of its faculty together with a record
36 of the educational qualifications of each.

37 (2) Certified copies of educational transcripts. A transcript
38 bearing the notation "issued to student" shall not be considered
39 an official transcript evidencing qualified faculty.

40 (3) Verified employment history.

1 (4) *Teaching assignments and other duties assigned for each*
2 *academic year whereby the faculty member entered into an*
3 *agreement with the institution to conduct one or more of the*
4 *courses in the institution's curriculum or is responsible for advising*
5 *and consulting with individual students or facilitating and*
6 *evaluating student learning outcomes and progress.*

7 (5) *The institution shall maintain for each member of the faculty*
8 *a validated transcript evidencing the annual completion of three*
9 *continuing education units of recognized inservice training in their*
10 *education, job title category, or employment field at the main*
11 *location. These units may be completed through inservice training*
12 *offered by accrediting associations or professional organizations.*

13 (6) *Each faculty member's job performance shall be assessed*
14 *annually, at a minimum, and documentation shall be evidenced in*
15 *the faculty member's personnel file. The duties, responsibilities,*
16 *and performance evaluation criteria for each faculty member shall*
17 *be evidenced in the personnel file of each faculty member.*

18 (d) *Each institution shall develop and implement written policies*
19 *and procedures providing for the participation of qualified faculty*
20 *in the conducting of research, development of curricula, academic*
21 *planning, enforcement of standards of academic quality, pursuit*
22 *of academic matters related to the institution's mission, purposes,*
23 *and objectives, and the establishment of criteria for contracting*
24 *new faculty, and evaluation of faculty credentials and instructional*
25 *effectiveness, such as peer review.*

26 (e) *Each institution shall have a written academic freedom*
27 *policy that describes the conditions under which scholars and*
28 *faculty are allowed latitude with respect to their discussions with*
29 *students that may include controversial concepts and positions*
30 *without fear of retribution or reprisal. This written policy shall be*
31 *made available to any person upon request. The institution shall*
32 *not take adverse action based on a faculty member's exercise of*
33 *academic freedom consistent with the institution's policy.*

34 94906. (a) *The institution shall have sufficient facilities and*
35 *necessary equipment to support the achievement of the educational*
36 *objectives of all of the courses and educational programs in which*
37 *students are enrolled.*

38 (b) *The institution's facilities, including heating and cooling,*
39 *ventilation, lighting, classrooms, laboratories, and campus*
40 *environs, shall be well maintained. The institution shall adopt*

1 *safety and security procedures necessary to protect students and*
2 *shall comply with Section 94380, if applicable.*

3 *(1) The institution's physical facilities, and any equipment used*
4 *on the institution's premises or sold to students, shall comply with*
5 *applicable health and safety requirements. The institution's*
6 *facilities and equipment shall be used in accordance with health*
7 *and safety requirements.*

8 *(2) The institution shall maintain on file all valid permits*
9 *required by public agencies relating to the health and safety of*
10 *the institution's facilities and equipment.*

11 *94907. (a) Each institution shall have qualified administrative*
12 *personnel fully capable of accomplishing the mission, purposes,*
13 *and objectives of the institution.*

14 *(1) Each owner, director, and administrator of an institution*
15 *has the duty to act in the utmost good faith to take all reasonable*
16 *steps within his or her capacity to cause the institution to comply*
17 *with all applicable law and to correct the effects of noncompliance.*

18 *(2) Each owner, director, and administrator of an institution*
19 *shall immediately disclose to the board evidence that the institution*
20 *or any person connected with the institution has engaged in fraud,*
21 *misrepresentation, misappropriation of funds, or any violation of*
22 *law prosecutable as a felony, except that no disclosure is required*
23 *of any matter privileged under Section 940 of the Evidence Code.*

24 *(3) Each owner, director, and administrator of an institution*
25 *shall expend or authorize the expenditure of the institution's assets*
26 *and funds, including tuition, fees, and other charges collected from*
27 *or on behalf of students, in a diligent and prudent manner to ensure*
28 *that students receive the education and student services that were*
29 *represented to the students and that meet the requirements of this*
30 *chapter.*

31 *(b) Each institution shall have a chief executive officer, a chief*
32 *operating officer, and a chief academic officer, at a minimum. One*
33 *person may serve more than one function.*

34 *(1) The Chief Executive Officer shall be the individual primarily*
35 *responsible for the overall administration of the institution,*
36 *including the supervision of the Chief Operating Officer and the*
37 *Chief Academic Officer.*

38 *(2) The Chief Academic Officer is the individual primarily*
39 *responsible for the administration of an institution's academic*
40 *Affairs including the supervision of faculty, development of*

1 *educational programs and curricula, and implementation of the*
2 *institution's mission, purposes, and objectives. The Chief Academic*
3 *Officer shall possess a degree and equivalent acceptable*
4 *experience at least equal to the highest qualifications required of*
5 *the institution's faculty.*

6 *(3) The Chief Operating Officer shall be the individual primarily*
7 *responsible for the administration of an institution's business*
8 *operations, including finances, management, personnel, and the*
9 *contracting of goods, services, and property.*

10 *(c) Financial aid directors shall have five years of experience*
11 *in an administrative position in the financial aid office of a public*
12 *or board approved private postsecondary school. Financial aid*
13 *officers shall possess verification of completion within the previous*
14 *two years of training seminar or workshop certified by the Student*
15 *Aid Commission as providing up-to-date comprehensive*
16 *information on financial aid programs and policies.*

17 *(d) No person shall serve in an administrative position if that*
18 *person has been convicted of, or has pled nolo contendere or guilty*
19 *to, a crime involving the acquisition, use, or expenditure of federal*
20 *or state funds, or who has been judicially or administratively*
21 *determined to have committed any violation of this chapter, any*
22 *law involving state or federal funds, or committed any act that*
23 *would constitute grounds for the denial of a license under Section*
24 *480 of the Business and Professions Code.*

25 *(e) The duties, responsibilities, and performance evaluation*
26 *criteria for each administrator shall be set forth in a personnel*
27 *manual or equivalent maintained by the institution. The written*
28 *document shall include a current organizational chart that*
29 *illustrates the governance and administrative structure of the*
30 *institution and the relationship between the faculty and the*
31 *administrative positions.*

32 *(f) The institution shall maintain current records for a period*
33 *of not less than five years at its principal place of business in*
34 *California. These records shall be immediately available during*
35 *normal business hours for inspection and copying by the board or*
36 *the Attorney General, and shall show all of the following:*

37 *(1) The names and addresses of its administrators together with*
38 *a record of the educational and experiential qualifications of each.*

39 *(2) The Chief Academic Officer records shall include certified*
40 *copies of educational transcripts. A transcript bearing the notation*

1 “issued to student” shall not be considered an official transcript
2 evidencing a qualified Chief Academic Officer.

3 (3) Verified employment history.

4 (4) Each administrator’s job performance will be assessed
5 annually, at a minimum, and documentation shall be evidenced in
6 the administrator’s personnel file. The duties, responsibilities, and
7 performance evaluation criteria for each administrator shall be
8 evidenced in the personnel file of each administrator.

9 (5) Administrators shall maintain a validated transcript
10 evidencing the annual completion of three continuing education
11 units of recognized inservice training in their education, job title
12 category, or employment field at the main location. These units
13 may be completed through inservice training offered by accrediting
14 associations or professional organizations.

15 94908. (a) The institution shall maintain a file for each student
16 who enrolls in the institution whether or not the student completes
17 the educational service. Every institution shall maintain for a
18 period of not less than five years at its principal place of business
19 in California accurate records that show all of the following:

20 (1) The names, telephone numbers, and home and local
21 addresses of each student.

22 (2) The courses of instruction offered by the institution and the
23 curriculum for each course.

24 (3) All information and records required by this chapter or
25 required by the board.

26 (4) Written records and transcripts of any formal education or
27 training, testing, or experience that is relevant to the student’s
28 qualifications for admission to the institution or the institution’s
29 award of credit or acceptance of transfer credits including all of
30 the following:

31 (A) Evidence of high school completion or equivalency or other
32 documentation establishing the student’s ability to do college level
33 work.

34 (B) Records documenting units of credit earned at other
35 institutions that have been accepted and applied by the institution
36 as transfer credits toward the student’s completion of an
37 educational program.

38 (C) Grades or findings from any examination of academic ability
39 or educational achievement used for admission or college
40 placement purposes.

- 1 (D) All of the documents evidencing a student's prior
2 experiential learning upon which the institution and the faculty
3 base the award of any credit.
- 4 (E) Personal information regarding a student's age, gender,
5 and ethnicity, if the student has voluntarily supplied that
6 information.
- 7 (F) Copies of all documents signed by the student, including
8 contracts, instruments of indebtedness, and documents relating to
9 financial aid.
- 10 (G) Records of the dates of enrollment and, if applicable,
11 withdrawal from the institution, leaves of absence, and graduation.
- 12 (H) A transcript showing all of the following:
- 13 (i) The classes and courses or other educational programs that
14 were completed, or were attempted but not completed, and the
15 dates of completion or withdrawal.
- 16 (ii) The final grades or evaluations given to the student.
- 17 (iii) Credit awarded for prior experiential learning, including
18 the course title for which credit was awarded and the amount of
19 credit.
- 20 (iv) Credit for courses earned at other institutions.
- 21 (v) Credit based on any examination of academic ability or
22 educational achievement used for admission or college placement
23 purposes.
- 24 (vi) Degrees and diplomas awarded the student.
- 25 (I) For independent study courses, course outlines or learning
26 contracts signed by the faculty and administrators who approved
27 the course.
- 28 (J) The dissertations, theses, and other student projects
29 submitted by graduate students.
- 30 (K) A copy of any document relating to student financial aid
31 that is required to be maintained by law or by a loan guarantee
32 agency.
- 33 (L) A document showing the total amount of money received
34 from or on behalf of the student and the date or dates on which
35 the money was received.
- 36 (M) A document specifying the amount of a refund, including
37 the amount refunded for tuition and the amount for other itemized
38 charges, the method of calculating the refund, the date the refund
39 was made, and the name and address of the person or entity to
40 which the refund was sent.

1 (N) Copies of any official advisory notices or warnings
2 regarding the student's progress.

3 (O) Complaints received from the student.

4 (b) Except as provided in subdivision (c), an institution shall
5 maintain all records required by this chapter and that relate to
6 the institution's compliance with this chapter for at least five years
7 at the institution's primary administrative location in California.
8 Unless the institution has applied for, and the board has approved
9 a change of the institution's primary administrative location, the
10 primary administrative location shall be deemed to be the location
11 identified in the institution's most recently filed application for
12 approval to operate.

13 (c) The institution shall maintain for a period of 50 years a
14 transcript as prescribed by subparagraph (H) of paragraph (4) of
15 subdivision (a).

16 (d) The institution shall maintain records relating to federal
17 financial aid programs as provided by federal law.

18 (e) A copy of each current record required by this chapter shall
19 be maintained. Current records include records required by
20 subdivision (a) for students who are attending the institution, who
21 graduated or withdrew from the institution within the preceding
22 one-year, or for whom a refund is owed. Current records may be
23 maintained in either printed form or on reliable electronic devices
24 so long as they are available for inspection.

25 (f) A record that is no longer current may be stored on
26 microfilm, microfiche, computer disk, or any other method of
27 record storage only if all of the following apply:

28 (1) The record may be stored without loss of information or
29 legibility for the period within which the record is required to be
30 maintained by the act.

31 (2) The institution maintains functioning devices that can
32 immediately reproduce exact, legible printed copies of stored
33 records. The devices shall be maintained in reasonably close
34 proximity to the stored records at the institution's primary
35 administrative location in California.

36 (3) The institution has personnel scheduled to be present at all
37 times during normal business hours who know how to operate the
38 devices and can explain the operation of the devices to any person
39 authorized by this chapter to inspect and copy records.

1 (4) Any person authorized by this chapter to inspect and copy
2 records shall be given immediate access to the document
3 reproduction devices for the purpose of inspecting and copying
4 stored records and shall, upon request, reimburse the institution
5 for the reasonable cost of using the institution's equipment and
6 material to make copies at a rate not to exceed ten cents (\$.10)
7 per page. The institution shall maintain a second set of all
8 academic and financial records required by this chapter at a
9 different location unless the original records, including records
10 stored pursuant to subdivision (e), are maintained in a manner
11 secure from damage or loss. Storage under this paragraph may
12 include, but is not necessarily limited to, fire resistant cabinets.

13 (g) All records that the institution is required to maintain by
14 this chapter or this chapter shall be made immediately available
15 by the institution for inspection and copying during normal
16 business hours by the board and any entity authorized to conduct
17 investigations under Article 10 (commencing with Section 95050).

18 (h) If an institution closes, the institution and its owners are
19 jointly and severally responsible to arrange at their expense for
20 the storage and safekeeping in California of all records that are
21 required to be maintained by this chapter for as long as those
22 records shall be maintained. The repository of the records shall
23 make these records immediately available for inspection and
24 copying, without charge except as allowed under paragraph (4)
25 of subdivision (f), during normal business hours by any entity
26 authorized by law to inspect and copy records.

27 94909. (a) Each institution shall establish specific written
28 standards for student admissions for each educational program.
29 These standards shall be related to the particular educational
30 program. The institution shall not admit any student who is
31 obviously unqualified, or who does not appear to have a reasonable
32 prospect of completing the program. Each institution shall specify
33 the maximum credit it will accept from another institution for each
34 educational program and the basis upon which the transfer or
35 experiential credit will be awarded.

36 (b) Units earned at institutions approved by this board, public
37 or private institutions of higher learning accredited by an
38 accrediting association recognized by the United States
39 Department of Education, or any institution of higher learning,
40 including foreign institutions, if the institution offering the

1 *undergraduate program documents that the institution of higher*
2 *learning at which the units were earned offers degree programs*
3 *equivalent to degree programs approved by the board or accredited*
4 *by an accrediting association recognized by the United States*
5 *Department of Education.*

6 *(c) Students who possess earned degrees from institution outside*
7 *of the United States shall be graduates of institutions recognized*
8 *by their government and their transcripts shall be translated into*
9 *English and be evaluated by the American Association of*
10 *Collegiate Registrars and Admissions Officers (AACRAO) or a*
11 *member of the National Association of Credential Evaluation*
12 *Services (NACES) to determine the equivalency of the degree to*
13 *those degrees awarded in the United States from institutions*
14 *accredited by an agency recognized by the United States*
15 *Department of Education or currently approved by the Office of*
16 *Proprietary Education.*

17 *(d) Every student admitted to an undergraduate degree program*
18 *shall have a high school diploma or meet the institution's written*
19 *standards demonstrating the ability to succeed in college. A*
20 *maximum of 75 percent of the units or credit that may be applied*
21 *toward the award of a bachelor's degree may be derived from a*
22 *combination of any or all of the following:*

23 *(1) An institution may accept transfer credits only from the types*
24 *of institutions of higher learning described in subdivisions (b) and*
25 *(c).*

26 *(2) Challenge examinations and standardized tests such as the*
27 *College Level Placement Tests for specific academic disciplines.*

28 *(3) Prior experiential learning to the extent permitted under*
29 *subdivision (h).*

30 *(e) Possession of a bachelor's degree or its equivalent shall be*
31 *required for admission into post-baccalaureate degree programs.*
32 *The institution shall document that alternatives to a bachelor's*
33 *degree accepted by the institution are equivalent to a bachelor's*
34 *degree. If a graduate program leads to a profession or an*
35 *occupation requiring state licensure and the licensing agency does*
36 *not require that the members of the profession or occupation*
37 *possess a bachelor's degree or its equivalent, this subdivision does*
38 *not apply.*

1 (f) No more than six graduate semester units or the equivalent
2 in other units awarded by another institution may be credited
3 toward a Master's degree.

4 (g) No more than 30 graduate semester units or the equivalent
5 in other units awarded by another institution may be credited
6 toward a doctoral degree. This subdivision does not apply to
7 graduate programs that lead to a profession or an occupation
8 requiring state licensure where the licensing agency has a
9 regulation permitting a different standard.

10 (h) An institution may grant credit to a student for prior
11 experiential learning only if the institution complies with this
12 section.

13 (1) Credit for prior experiential learning may be granted only
14 if all of the following apply:

15 (A) The prior learning is equivalent to a college or university
16 level of learning.

17 (B) The learning experience demonstrates a balance between
18 theory and practice.

19 (C) The credit awarded for the prior learning experience directly
20 relates to the student's degree program and is applied in
21 satisfaction of some of the degree requirements.

22 (D) Each college or university level learning experience for
23 which credit is sought shall be documented by the student in
24 writing.

25 (2) Each college or university level learning experience shall
26 be evaluated by faculty qualified in that specific subject area who
27 shall ascertain to what college or university level learning the
28 student's prior experience is equivalent and how many credits
29 toward a degree may be granted for that experience.

30 (3) The faculty evaluating the prior learning shall prepare a
31 written report indicating all of the following:

32 (A) The documents in the student's record on which the faculty
33 member relied in determining the nature of the student's prior
34 experience.

35 (B) The bases for determining that the prior experience is
36 equivalent to college or university level learning and demonstrates
37 a balance between theory and practice.

38 (C) The bases for determining to what college or university
39 level the experience is equivalent, and the proper number of credits
40 to be awarded toward the degree for that experience.

1 (4) *The institution shall designate at least one administrator to*
2 *be responsible for the review of faculty determinations regarding*
3 *the award of credit for prior experiential learning.*

4 (5) *The administrator shall document the institution's periodic*
5 *review of faculty evaluations to ensure that the faculty written*
6 *evaluations and awards of credit comply with this section and the*
7 *institution's policies and are consistent.*

8 (6) *The amount of credit awarded for prior experiential learning*
9 *shall not be related to the amount charged the student for the*
10 *assessment process.*

11 (7) *Of the first 60 semester units awarded a student in an*
12 *undergraduate program, no more than 15 semester units may be*
13 *awarded for prior experiential learning.*

14 (8) *Of the second 60 semester units awarded a student in an*
15 *undergraduate program, no more than 15 semester units may be*
16 *awarded for prior experiential learning.*

17 (9) *Of the first 30 semester units awarded a student in a*
18 *graduate program, no more than six semester units may be*
19 *awarded for prior experiential learning.*

20 (10) *Of the second 30 semester units awarded a student in a*
21 *graduate program, no more than three semester units may be*
22 *awarded for prior experiential learning.*

23 (11) *No credit for experiential learning may be awarded after*
24 *a student has obtained 60 semester units in a graduate program.*

25 94910. *Each institution shall maintain and implement*
26 *procedures for the measurement of student academic progress*
27 *including all of the following:*

28 (a) *The use of evaluation and assessment measures consistent*
29 *with the level and abilities of the student and the mission, purposes,*
30 *and objectives of the institution.*

31 (b) *The maintenance of records of student progress that is*
32 *readily understandable and usable by other accredited or approved*
33 *institutions for the evaluation of students for admission.*

34 (c) (1) *The requirements that students demonstrate their*
35 *knowledge, skills, and academic achievement through student work*
36 *products, including tests, essays, written projects, oral*
37 *presentations, theses, and dissertations.*

38 (d) *The award of grades or credits based on evaluation by duly*
39 *qualified faculty.*

1 94911. (a) Each institution shall retain, for a minimum of five
2 years, copies of all advertising, including flyers, brochures,
3 newspaper, and other print advertisements, scripts for, and audio
4 and video recordings of, broadcast advertisements, and scripts
5 for telephone solicitations. The institution shall make these records
6 immediately available for inspection and copying during normal
7 business hours to site visit teams, the board, and the agencies
8 specified in Article 10 (commencing with Section 95050).

9 (b) No institution shall use the word “university” in its name
10 or in connection with a description of itself or its educational
11 programs unless the institution is a university as defined in Section
12 94767, or the institution uses other words in conjunction with
13 “university” to prevent the use of “university” from being
14 deceptive or misleading in any manner.

15 (c) (1) The institution shall have an official name. The name
16 shall not be identical, or similar to such a degree as may be
17 misconstrued as identical, to the name of an existing public or
18 nonpublic institution approved or authorized to operate in
19 California or deemed by the board as an identity confusing or
20 misleading to the public at large.

21 (2) Currently approved institutions that do not meet the criteria
22 of this section, shall have until June 30, 2009, to comply with this
23 section.

24 (d) (1) No honorary degree may be given, awarded, or granted
25 by any institution that does not give, award, or grant an earned
26 degree.

27 (2) No fee or other charge may be assessed for giving, awarding,
28 or granting an honorary degree.

29 (3) An honorary degree shall be clearly designated as such on
30 the diploma or certificate.

31 94912. (a) An institution shall, as part of its curricula, require
32 that students use available library and other learning resources.
33 An institution shall provide or make provision for the library and
34 other learning resources needed to support each educational
35 program it offers, including resources such as reference works,
36 periodicals, monographs, and media and equipment specific to
37 the educational programs offered. The institution shall provide
38 onsite library and other learning resources, if any, that enable
39 students to pursue inquiries, searches for information and

1 *documentation, and assignments connected with their study*
2 *programs.*

3 *(b) An institution that depends for library and other learning*
4 *resources primarily on other institutions' collections and resources*
5 *not in its possession shall do all of the following:*

6 *(1) Provide students and faculty with access to the regular*
7 *services of a professional librarian or information specialist*
8 *experienced in the electronic retrieval of information, who shall*
9 *provide support for faculty in curriculum matters and actively*
10 *serve as a resource guide for both graduate and undergraduate*
11 *students.*

12 *(2) Ensure that students have access to the library collections*
13 *and resources of another institution, organization, or library.*

14 *(3) Document compliance with paragraphs (1) and (2).*

15 *94913. (a) Each institution shall designate a sufficiently*
16 *trained individual to provide to students academic advisement,*
17 *financial aid advisement, and placement services. Advising and*
18 *guidance services shall be readily available to students to assist*
19 *them in program planning, course selection, and other academic*
20 *activities. Financial aid administration and distribution shall be*
21 *performed according to institutional, state, and federal policies.*
22 *Placement services and employment opportunities shall be*
23 *accurately described.*

24 *(b) Each institution shall assist its students in similar*
25 *educational programs may convene as a study group if they so*
26 *choose.*

27

28 *Article 8. Procedures for Approval to Operate*

29

30 *94950. (a) Schools offering or proposing to offer*
31 *credit-bearing courses or degree programs shall file applications*
32 *for approval to operate.*

33 *(b) Schools may demonstrate financial viability through an*
34 *audit, by a certified public accountant, that provides an unqualified*
35 *opinion on the financial standing of the school.*

36 *(c) A school training students for employment in any specific*
37 *area shall demonstrate that there is a work force market need for*
38 *this skill or that the school has explained to students that there*
39 *may be no employment opportunities in this area.*

1 (d) There shall be no temporary, provisional, or conditional
2 licenses under this chapter. A school is either approved or not
3 approved.

4 (e) The board shall review and approve modifications that are
5 of a substantive nature, as determined by the board, before the
6 changes can be implemented or take effect. The board shall not
7 consider substantive changes if the school is operating under an
8 initial approval, an approval with conditions, or on probation.

9 (f) It is the intent of the Legislature to enact subsequent changes
10 to this chapter to establish parameters for significant change in a
11 manner that does not micromanage the industry or create consumer
12 risk. "Significant change," within the meaning of this subdivision,
13 may include any of the following:

14 (1) Change of ownership.

15 (2) Approval for an additional degree or certificate program.

16 (3) Approval for change of school name.

17 (4) Approval for a change of location or an additional location.

18 (5) Approval for adding a methodology of instruction or change
19 of mission.

20 (g) Nonsignificant program modifications are those that result
21 in less than a 25 percent change in the program's credit hours,
22 changes to the name of an approved program, or a change in the
23 agent for service of process. Although the board shall not require
24 prior approval of nonsignificant program modifications, schools
25 shall notify the board, in writing, of these types of modifications.

26 94952. An institution shall not advertise itself as an approved
27 institution unless each educational program offered by the
28 institution has been approved in accordance with the requirements
29 of this section. The board may review all operations of the
30 institution pertaining to California educational programs, both
31 within and outside of California. Each institution or instructional
32 degree program offering education for entry into a health care
33 profession in which the provider has primary care responsibilities
34 shall offer that education within a professional program that shall
35 be subject to approval by the board pursuant to this section.

36 94953. (a) All complete applications for licensure shall
37 approved or denied within ____ days from the date of receipt of
38 the complete application. This ____ day period shall not begin
39 until complete information is received. Applicants shall be notified
40 in writing and in a timely manner of any deficiencies in the

1 application. Applicants shall be told in clear and concise terms of
2 any expected delays in reviewing the application and of the reasons
3 for the delay.

4 (b) The board shall not provide conditional or temporary
5 approval under this chapter.

6 (c) The executive director shall make a periodic report to the
7 board in full board meetings on pending applications and approved
8 applications.

9 94954. (a) Except as otherwise provided pursuant to Article
10 3 (commencing with Section 94770), each institution desiring to
11 operate in this state shall make application for approval to operate
12 to the Board for Private Postsecondary Education, upon forms to
13 be provided by the board. The board shall make forms available
14 electronically and allow institutions to file electronically where
15 appropriate. The board shall strive to ensure that all forms are
16 concise, clear, and complete. The board may approve an
17 unaccredited institution or an institution that is accredited but
18 whose accrediting entity has not entered into a participatory
19 agreement with the board, provided the following standards, in
20 addition to the provisions established in Article 6 (commencing
21 with Section 94850) and Article 7 (commencing with Section
22 94900), have been met.

23 (b) Each application shall include, as a minimum, at least all
24 of the following:

25 (1) A fee based on the number of branches, satellites, and
26 programs included within a single application in order to cover
27 the costs involved for those multi-site and multi-program reviews.
28 If the application for approval includes branches and satellites,
29 the board may inspect each branch and may inspect any satellite
30 campus.

31 (2) The application shall be signed and certified under oath by
32 the owners of the school or, if the school is incorporated, by the
33 principal owners of the school (those who own at least 10 percent
34 of the stock), or by the corporate officers or their designee. The
35 application shall contain a statement that the person or persons
36 who sign the application certify to the best of their knowledge that
37 the institution and each signatory complies with all applicable
38 laws regarding the operation of the institution.

1 (3) Copies of the institution's articles of incorporation, bylaws,
2 fictitious name statement, or other documents substantiating the
3 current ownership.

4 (4) If the institution has a governing board, the application shall
5 also include the name, work address, and telephone number of
6 each member of the governing board.

7 (5) The current name and California address of a designated
8 agent upon whom any process, notice, or demand may be served.
9 The agent address shall not be the same as the institution address.

10 (6) The name, work address, and telephone number of the
11 custodian of records, and the address and telephone number of
12 the office where the records will be maintained.

13 (7) The institution shall furnish timely notification with an
14 explanation of any legal action pending against the institution or
15 ownership or any of the institution's owners, officers, corporate
16 directors, administrators, or faculty by any federal, state, or local
17 law enforcement agency involving alleged acts of fraud, dishonesty,
18 financial mismanagement, unpaid liabilities to any governmental
19 agency or claims for pecuniary loss suffered by any student.

20 (8) The institution's most current financial report as described
21 in Section 94856, and proof of insurance or certificate of liability
22 coverage.

23 (9) The information specified in Article 6 (commencing with
24 Section 94850) regarding annual reports by institutions, if
25 applicable.

26 (10) A catalog published, or proposed to be published, by the
27 institution containing the information specified in Section 94861.

28 (11) Copies of all student enrollment agreement or contract
29 forms, instruments evidencing indebtedness, the School
30 Performance Fact Sheet, and Transferability of Credit Units
31 disclosure form.

32 (12) Copies of media advertising and promotional literature.

33 (13) An application submitted by a nationally accredited,
34 regionally accredited, professionally accredited, or
35 program-specifically accredited institution shall include a copy
36 of the certificate of accreditation issued by the accrediting agency
37 along with information specified in subdivision (d) regarding
38 notification requirements pertaining to accrediting agency and
39 audit reports.

1 *(14) An application submitted by an institution regulated by*
2 *any other state licensing agency, shall include a copy evidencing*
3 *the approval of that agency.*

4 *(b) (1) The initial application shall include, as a minimum, at*
5 *least all of the following:*

6 *(A) All materials listed in paragraphs (1) to (14), inclusive, of*
7 *subdivision (a).*

8 *(B) A copy of the document awarded to graduating students*
9 *upon their successful completion of the educational program.*

10 *(C) A description of how student records required by this*
11 *chapter are or will be organized and maintained, the types of*
12 *documents contained in individual student files, how the student*
13 *records are stored, and whether academic and financial records*
14 *are maintained in separate files.*

15 *(D) For facilities that are leased or rented, the application shall*
16 *contain the name and address of the lessor or landlord, together*
17 *with a copy of any use, lease, or rental agreements for the facilities.*
18 *For each program offered, the application shall contain a*
19 *description of the facilities and the equipment that is available for*
20 *use by students at the main, branch, and satellite locations of the*
21 *institution. Branches or satellites included in an initial application*
22 *shall be considered by the board as subdivisions of the single*
23 *institution for purposes of regulation, approval, and compliance*
24 *under this chapter.*

25 *(E) An operational plan establishing that the institution will*
26 *satisfy the minimum standards set forth in Article 7 (commencing*
27 *with Section 94900). The operational plan also shall include a*
28 *detailed description of the institution's program for implementing*
29 *the operational plan, including proposed procedures, financial*
30 *resources, and the qualifications of owners, directors, officers,*
31 *and administrators employed at the time of the filing of the*
32 *application. The board may request additional information to*
33 *enable the board to determine whether the operational plan and*
34 *its proposed implementation will satisfy these minimum standards.*

35 *(2) The initial application may be reviewed and acted upon as*
36 *provided in Article 7 (commencing with Section 94900).*

37 *(3) Once a grant of initial approval has been issued, a qualified*
38 *visiting committee impaneled by the board for that purpose, as*
39 *provided by Section 94956, shall perform a comprehensive onsite*

1 review. The scope and composition of the visiting committee shall
2 be at the discretion of the board.

3 (4) The board shall inspect the institution within 720 days after
4 operation has begun under the initial approval to operate. Within
5 90 days of the receipt of the site visit report and recommendations,
6 the board shall take action pursuant to Section 94956.

7 (5) All institutions operating under an initial approval shall
8 include the following disclosure on each enrollment agreement
9 and catalog:

10 “This institution has received an initial approval to operate from
11 the board of Private Postsecondary Education. An initial approval
12 is merely an interim designation the board can authorize pending
13 a qualitative review and assessment of the institution. At the time
14 it is issued, the board has not yet conducted a site visit. It is issued
15 if the board determines the institution’s operational plan satisfies
16 minimum standards. The initial approval will remain in effect for
17 not more than 720 days in order to enable the board to conduct
18 the site visit and inspection of the institution. After that visit, the
19 board will then determine whether the institution should be
20 approved. If a review and decision cannot be completed by the
21 board before the expiration of the institution’s Initial approval,
22 that expiration date shall be extended until the date that the board
23 notifies the institution of its decision.”

24 (6) All institutions operating under an initial approval shall
25 have the following notice included in any advertisements it causes
26 to be published in the print or electronic media:

27 “This institution has received an initial approval to operate from
28 the Board for Private Postsecondary Education in order to enable
29 the board to conduct a quality inspection of the institution.”

30 (c) At least 90 days before the expiration of an approval to
31 operate, the institution shall complete and file with the board an
32 application form for renewal of its approval to operate.

33 (1) The renewal application shall include, as a minimum, at
34 least both of the following:

35 (A) All materials listed in paragraphs (1) to (14), inclusive, of
36 subdivision (a).

37 (B) A description of any changes made by the institution since
38 the time its last application was reviewed by the board.

39 (2) Before an application for renewal to operate is approved,
40 the board reserves the right to require on site review. A qualified

1 *visiting committee impaneled by the board for that purpose, as*
2 *provided by Section 94956, shall perform a comprehensive onsite*
3 *review. The scope and composition of the visiting committee shall*
4 *be at the discretion of the board. The board shall inspect the*
5 *institution, pursuant to subdivision (a), within 720 days after*
6 *operation has begun under the initial approval to operate.*

7 *(3) The renewal application may be reviewed and acted upon*
8 *as provided in Article 7 (commencing with Section 94900).*

9 *(4) If a review and decision on a renewal application cannot*
10 *be completed by the board before the expiration of the institution's*
11 *current approval, that expiration date shall be extended until the*
12 *date that the board notifies the institution of its decision.*

13 *(5) Changes that are considered amendments to the current*
14 *approval shall be submitted separately on forms prescribed by the*
15 *board with the applicable fees.*

16 *(d) (1) The board may accept accreditation by national or*
17 *regional accrediting entities recognized by the United States*
18 *Department of Education as evidence of partial or complete*
19 *compliance with standards established by the board pursuant to*
20 *this chapter.*

21 *(2) (A) Each accreditation entity seeking consideration of its*
22 *members for approval by means of accreditation shall enter into*
23 *written agreement with the board, and submit its accrediting*
24 *standards for determination by the board that the entity's standards*
25 *are substantially equivalent to those of the board.*

26 *(B) The written agreement shall include a provision that each*
27 *accreditation entity agrees to provide the board, upon request,*
28 *copies of all accreditation reports, including preliminary reports*
29 *and visiting committee reports, within 15 days of the member*
30 *institution's receipt of the report, and a copy of the member*
31 *institution's submission of its response.*

32 *(C) Work papers for all accreditation entity reports, including*
33 *preliminary reports and visiting committee reports, shall be*
34 *retained for five years from the date of the reports, and shall be*
35 *made available for inspection and copying by the board or the*
36 *Attorney General.*

37 *(3) Acceptance of national or regional accrediting agencies*
38 *recognized by the United States Department of Education as*
39 *evidence of partial or complete compliance shall be on a*
40 *school-by-school basis.*

1 (4) Acceptance may include authorized board staff participating
2 as observers on accreditation site visits.

3 (5) This section does not preclude or relieve the board of its
4 responsibilities under this chapter, and the board shall retain full
5 authority for approving all private postsecondary degree granting
6 institutions operating in California.

7 (6) Except as otherwise provided pursuant to Article 3
8 (commencing with Section 94770), each institution desiring to
9 operate in this state by means of accreditation, shall make
10 application to the board, upon forms to be provided by the board.
11 The application shall include, as a minimum, all of the materials
12 listed in paragraphs (1) to (14), inclusive, of subdivision (a).

13 (d) The board shall consider an application to be complete if it
14 appears that the institution has submitted all of the information,
15 documents, and fees required by this chapter. The board shall take
16 action pursuant to Section 94955.

17 (e) Within 45 days after receipt of an application for approval
18 to operate, the board shall notify the institution in writing that the
19 application is complete and has been accepted for filing, or that
20 the application is not complete. If the application is not complete,
21 the board shall specify in the notice what additional information
22 or documents are needed from the institution in order for the
23 application to be deemed complete.

24 (f) (1) The board shall consider an application to be complete
25 if it appears that the institution has submitted all of the information,
26 documents, and fees required by the act. This includes any
27 additional documents the board may request to determine if the
28 institution's operational plan and its proposed implementation
29 meet the minimum standards of this chapter.

30 (2) An application that has not been completed by the applicant
31 in accordance with this chapter within one year after the
32 application was initially filed shall be deemed abandoned. If an
33 application has been abandoned, the applicant may seek approval
34 to operate only by submitting a new application and fee.

35 (g) Following review of the application and any other further
36 information submitted by the applicant, including the required
37 information that conforms with Article 7 (commencing with Section
38 94900) and Article 8 (commencing with Section 94950), and any
39 investigation of the applicant as the board deems necessary or

1 appropriate, the board either shall grant approval to operate or
2 deny the application.

3 94955. The board, after concluding its review, may act on an
4 application for initial approval or renewal of an existing approval
5 to operate, as follows:

6 (a) (1) Tier 1 approval: after finding that the information
7 provided in the application materials and processes prescribed
8 by Section 94925 meets the minimum standards, the board may
9 grant approval to operate.

10 (2) Tier 1 approval shall signify that the institution is in
11 compliance with the standards for institutional approval.

12 (3) Approval for a period of up to five years.

13 (b) (1) Tier 2 approval: if the institution is not a regionally
14 accredited nonprofit school or has a history of compliance issues
15 under subdivision (a) approval, the board may grant approval to
16 operate under this subdivision. Issues identified for correction
17 may be, in the judgment of the board, of a nature or scope that
18 affects the institution's capacity to maintain adherence to the
19 minimum standards for the period of this approval, or may relate
20 either to minor compliance matters or to the strengthening of
21 practices that meet the standards of compliance.

22 (2) (A) Tier 2 approval shall signify that the institution has
23 demonstrated the intent and capacity to rectify identified
24 deficiencies within no more than three years.

25 (B) During the period of the approval, the institution may be
26 subject to special monitoring. The conditions for the approval may
27 include the required submission of frequent and focused reports,
28 as prescribed by the board, and special visits by authorized
29 representatives of the board to determine progress toward total
30 compliance.

31 (C) Approval for a period of up to five years.

32 (c) (1) Tier 3 approval: if, at any time, the board determines
33 that an institution has deviated substantially from the standards
34 for approval, the board, after identifying for the institution the
35 areas in which it has deviated from the standards, and after giving
36 the institution due notice and an opportunity to be heard, may
37 grant approval for no more than one year.

38 (2) (A) Tier 3 approval shall signify that the institution is not
39 in compliance with the standards of approval and is subject to a
40 period of evaluation and possible termination of approval.

1 (B) During the period of Tier 3 approval, the institution shall
2 be subject to monitoring that may include the submission of
3 frequent and focused reports, as prescribed by the board, as well
4 as special onsite inspections to determine progress towards
5 compliance. The onsite inspections may include an inspection of
6 the institution's facilities and records, interviews of administrators,
7 instructors, and students, and observation of class instruction. The
8 board shall order the institution to reimburse all reasonable costs
9 and expenses incurred by the board in connection with this
10 subdivision. The board may make the payment of the order for
11 reimbursement a condition of probation.

12 (C) The board shall notify the institution of the basis for
13 approval under Tier 3.

14 (i) While the institution is operating under Tier 3 approval, the
15 board shall not review or consider any request by the institution
16 for significant modification, as described by Section 94957.

17 (ii) All institutions operating under Tier 3 approval shall provide
18 the following disclosure to each current student and prospective
19 student in writing and be evidenced in the student's file:

20 "This institution has been found by the state Board for Private
21 Postsecondary Education to be operating in violation of the
22 statutes, standards and regulations that govern private
23 postsecondary educational institutions. This institution is allowed
24 to operate while the board monitors compliance with applicable
25 regulations, statutes for a period of one year. After this period,
26 this institution will be reevaluated by the state Board for Private
27 Postsecondary Education to determine whether this institution
28 should continue to be allowed to operate."

29 (D) If, at the end of the period of Tier 3 approval, the board is
30 not satisfied with the steps taken by the institution to eliminate the
31 violations of this article, upon which the Tier 3 approval was
32 based, the board may revoke the institution's approval to operate.

33 (E) If the board determines after notice and, if requested by the
34 institution, a hearing, that an institution has violated this article,
35 but that the institution's approval to operate, or approval to
36 operate a branch or satellite campus, or any approved program
37 thereof, should not be revoked, or that the institution should not
38 be ordered to cease offering a class or program of instruction, the
39 board may do any or all of the following:

40 (i) Order the institution to post a bond.

1 (ii) (I) Any bond ordered by the board shall be issued by an
2 admitted surety insurer in an amount established at the discretion
3 of the board that is sufficient to protect students from the potential
4 consequences of the violation.

5 (II) The bond shall be in favor of the State of California for the
6 indemnification of any person for any loss, including the loss of
7 prepaid tuition, suffered as a result of the occurrence of any
8 violation of this chapter during the period of coverage.

9 (III) Liability on the bond may be enforced after a hearing
10 before the board, after 30 days' advance written notice to the
11 principal and surety. This subclause supplements, but does not
12 supplant, any other rights or remedies to enforce liability on the
13 bond.

14 (IV) The board may order the institution to file reports at any
15 interval the board deems necessary to enable the board to monitor
16 the adequacy of the bond coverage and to determine whether
17 further action is appropriate.

18 (iii) Order the institution not to enter into new agreements for
19 programs of instruction.

20 (iv) The board may assess a penalty of up to ten thousand dollars
21 (\$10,000) as part of a probation order for violations of this article.
22 In determining the amount of that penalty, the board shall consider
23 the number and gravity of the violations, the degree of the
24 institution's good faith or culpability, the history of the institution's
25 previous violations, and the institution's ability to pay. If the
26 institution fails to pay a penalty within the time prescribed by the
27 board the institution's approval to operate shall be automatically
28 revoked.

29 (v) The board shall determine an institution's compliance,
30 including the compliance of its branch and satellite campuses, and
31 shall not be bound by the findings or conclusions of any accrediting
32 agency.

33 94956. (a) A visiting committee shall make a comprehensive,
34 qualitative onsite review of each institution that applies for an
35 initial to operate 90 days before the expiration of that approval.
36 In addition, the director or a designee may impanel a special
37 committee consisting of one or more technically qualified people
38 to assist a visiting committee in the evaluation of an institution's
39 proposal for an a degree program considered a new and emerging
40 field of study. The board reserves the right to use a qualified

1 visiting committee in subsequent reviews, such as an application
2 for renewal or investigations.

3 (b) The board may conduct site visits outside of California,
4 including the institution's foreign operations, as the board
5 determines these visits to be necessary. The institution shall be
6 responsible for the expenses of the visiting team members including
7 the board's staff liaison.

8 (c) The board may waive or modify the onsite inspection for
9 institutions offering educational services through distance learning.

10 (d) When evaluating an institution whose purpose is to advance
11 postsecondary education through innovative methods or an
12 emerging field of study, the visiting committee shall be composed
13 of educators who are familiar with, and receptive to, evidence
14 bearing on the educational quality and accomplishments of those
15 methods.

16 (e) (1) The executive director or a designee shall appoint the
17 visiting committee.

18 (2) An institution seeking the impaneling of a special visiting
19 committee to review the institution's offer of instruction in an
20 emerging field of study, or the offer of instruction through
21 innovative methods of instruction, shall make special application
22 to the director as provided in Section 94957.

23 (3) The visiting committee shall include educators trained in
24 the academic disciplines of educational programs offered by the
25 institution, and any other person found to be technically qualified
26 within the meaning of subdivision (e) of Section 94789, from
27 degree-granting institutions legally operating in this state whom
28 the director or a designee deems necessary to provide a
29 comprehensive, qualitative review. The director or a designee
30 shall appoint a chair of the visiting committee. The director or a
31 designee shall appoint a member of the board's staff to serve as
32 the visiting committee's liaison. The staff member shall prepare,
33 with the cooperation of the visiting committee's members, the
34 visiting committee's evaluation report and recommendations.

35 (4) The institution being evaluated shall be notified of the
36 identity of the members of the visiting committee at least 45 days
37 before the visit. The notice shall also include a description of the
38 institution's right to object to a committee member and the
39 procedure for objection as provided in this section.

1 (5) (A) *If the institution objects to the inclusion of any person*
2 *in the visiting committee, the institution may file a written objection*
3 *with the director at least 10 days before the visiting committee is*
4 *originally scheduled to conduct its onsite inspection.*

5 (B) *An institution has a right to seek the disqualification of a*
6 *visiting committee member before the occurrence of the onsite*
7 *inspection on any of the following grounds:*

8 (i) *The committee member has inadequate academic or*
9 *experiential qualification.*

10 (ii) *The committee member or his or her family has a financial*
11 *interest in, or is employed by, a competing institution that offers*
12 *or proposes to offer any of the educational programs offered or*
13 *proposed to be offered by the applicant institution.*

14 (iii) *The committee member is biased. In order to establish that*
15 *a committee member is biased, the institution shall document by*
16 *written evidence that the member is predisposed to give an*
17 *unfavorable recommendation.*

18 (C) *An institution seeking to disqualify a visiting committee*
19 *member shall submit copies of all evidence and argument on which*
20 *it relies when the written objection is filed.*

21 (D) *All evidence and argument shall be considered by the*
22 *executive director. The executive director shall make the final*
23 *decision on the composition of the visiting committee before the*
24 *onsite inspection occurs. There shall be no oral hearing or review*
25 *of this decision. However, if the executive director rejects the*
26 *objection, the institution may raise the grounds for disqualification*
27 *in any administrative proceeding that may be held after the*
28 *inspection occurs.*

29 (E) *If an institution has grounds under subparagraph (C) to*
30 *object to the impaneling of a committee member before the*
31 *occurrence of the onsite inspection and fails to timely object, the*
32 *institution permanently waives the right to challenge the visiting*
33 *committee's composition or report on those grounds.*

34 (f) (1) *The visiting committee shall conduct a comprehensive,*
35 *qualitative onsite inspection and review of all aspects of the*
36 *institution's operations to evaluate the institution's efforts to*
37 *implement its mission, purpose, and objectives and to determine*
38 *whether the institution complies with the applicable requirements*
39 *of this chapter.*

1 (2) *The visiting committee's inspection and review may include*
2 *the examination of documents and records, the inspection of*
3 *facilities and equipment, the auditing of classes, and the interview*
4 *of current or former owners, directors, officers, administrators,*
5 *faculty, and students.*

6 (3) *The visiting committee shall cooperate with the board staff*
7 *liaison in the preparation of a written evaluation report.*

8 (4) (A) *A report shall be prepared and submitted to the*
9 *institution before the board receiving the report and the*
10 *recommendations. The institution shall have an opportunity to*
11 *review the visiting committee report and respond to board staff*
12 *within 15 days of the institution's receipt of that report as to errors*
13 *of fact or erroneous findings based on errors of fact. The director*
14 *or a designee will review the report and will submit to the board*
15 *the visiting committee's report and board staff's recommendations*
16 *along with the institution's comments. Except as provided in*
17 *subdivision (g), the board shall accept the visiting committee's*
18 *report as its basis for taking appropriate action.*

19 (B) *The visiting committee report shall contain all of the*
20 *following:*

21 (i) *The committee's findings regarding the institution's*
22 *compliance with this chapter and facts supporting those findings.*

23 (ii) *The committee's assessment of the quality of each*
24 *educational program offered by the institution and facts supporting*
25 *the assessment.*

26 (iii) *The committee's assessment of the quality of the institution*
27 *as a whole and facts supporting the assessment.*

28 (iv) *The committee's recommendations for quality improvement*
29 *based on its findings and assessment in the event the board*
30 *determines to grant an approval to operate.*

31 (g) *The board shall not be bound by any of the following:*

32 (1) *Any facts adduced by the visiting committee that is based*
33 *on inaccurate or unreliable evidence or that is inconsistent with*
34 *other facts found by the board.*

35 (2) *The findings or assessment made by the visiting committee,*
36 *if the findings or assessments are not supported by the facts or the*
37 *facts support different findings or assessments that may be*
38 *reasonably made by the board.*

1 (3) *The visiting committee's recommendations. Any actions*
2 *taken that do not follow these recommendations shall have some*
3 *reasonable basis in fact or law.*

4 (h) (1) *The institution shall make available for inspection by*
5 *the visiting committee all records that the visiting committee*
6 *reasonably deems necessary or appropriate to inspect to determine*
7 *whether the institution meets the standards of this chapter. Only*
8 *those records necessary to establish compliance with the provisions*
9 *of this chapter are required to be produced under this section.*

10 (2) *The institution shall facilitate the visiting committee's onsite*
11 *inspection including the inspection of records, inspection of*
12 *facilities and equipment, observation of class sessions, or*
13 *interviews with officers, administrators, faculty, or students.*

14 (i) (1) *The institution shall reimburse the board for expenses*
15 *incurred by the visiting committee, except for board staff,*
16 *conducting the onsite visit at rates not to exceed those used by the*
17 *state for reimbursing state employees on work travel assignment.*

18 (2) *No later than 30 days before the visit, the executive director*
19 *shall submit to the institution an estimated cost of the visit. The*
20 *institution shall pay all of the estimated cost 15 days before the*
21 *visit. If the deposit is not received by the deadline, the executive*
22 *director may cancel the visit and require that the institution submit*
23 *a new application and application fee.*

24 (3) *Within 15 days following the conclusion of the visit to the*
25 *institution and all sites scheduled that will be visited, the executive*
26 *director shall provide the institution with a statement of the actual*
27 *expenses of the visit.*

28 (4) *If the deposit was greater than the expenses incurred for the*
29 *visit, the board shall remit the excess within 30 days following the*
30 *date of the visit.*

31 (5) *If the costs exceeded the amount of the deposit, the institution*
32 *shall remit the balance within 30 days after receiving the statement*
33 *of expenses. The time period within which the board is required*
34 *to act on the application shall be tolled until the board receives*
35 *the balance. If the balance is not received by the deadline, the*
36 *executive director may require that the institution submit a new*
37 *application and application fee.*

38 94957. (a) *Modifications that are of a substantive type shall*
39 *require formal review and approval by the board before the*
40 *changes can be implemented or take effect. The board will not*

1 *consider substantive changes if the institution is operating under*
2 *an initial approval or an approval with conditions, or is on*
3 *probation.*

4 *(b) Any application submitted for significant changes to a*
5 *current approval to operate shall be signed under penalty of*
6 *perjury that any changes proposed would meet the standards*
7 *provided in Article 7 (commencing with Section 94900).*

8 *(c) (1) If a shift in control or change of ownership of an*
9 *institution occurs, an application for a new approval to operate*
10 *for the institution under the changed ownership or control shall*
11 *be filed at least 30 days before the shift in control or change in*
12 *ownership. Whenever an institution is operated at different*
13 *locations, an application for approval shall be filed for each*
14 *location.*

15 *(2) The application for approval to operate submitted in*
16 *conjunction with a change of ownership may include pertinent*
17 *portions of the institution's previous application prepared in*
18 *connection with programs or courses of instruction that are*
19 *changed or affected by the change in ownership.*

20 *(3) No application for ownership or transfer of ownership shall*
21 *be approved for any applicant that has been found previously in*
22 *any judicial or administrative proceeding to have violated this*
23 *chapter, or if there exists any of the grounds for denial set forth*
24 *in Section 480 of the Business and Professions Code.*

25 *(4) No change in ownership of the institution shall be made*
26 *until the application is approved. If an application for a change*
27 *in ownership or control is not timely filed as required by this*
28 *section, the institution's approval to operate shall terminate.*

29 *(5) For the purposes of this section, a change in ownership*
30 *occurs under the following circumstances:*

31 *(A) When there is a change of control of the institution, or where*
32 *a person that previously did not own at least 25 percent of the*
33 *stock or controlling interest of an institution or its parent*
34 *corporation, acquires ownership of at least 25 percent of the stock*
35 *of the institution or its parent corporation, or when a for-profit*
36 *business converts to nonprofit corporation status or forms a*
37 *nonprofit corporation as a subsidiary to provide the educational*
38 *services for which the for-profit business is approved to operate.*

39 *(B) When there is a change of 50 percent or more of the voting*
40 *members of the controlling board of a nonprofit corporation within*

1 a 12-month period or when there is a change in the number of
2 voting members of the aforementioned board within a 12-month
3 period that will allow a group of members to exercise control who
4 could not exercise control before the change.

5 (6) The institution shall be required to notify the board, and
6 provide substantiating documentation, that the agreement for the
7 change of ownership has been executed.

8 (7) If an institution is applying for approval to change
9 ownership, the application shall be made in writing upon forms
10 to be provided by the board, and shall contain, at a minimum, all
11 of the following information:

12 (A) Evidence confirming that the institution has sufficient
13 financial resources to ensure satisfactory conduct of its degree
14 programs and achievement of its stated educational goals.

15 (B) Evidence that the individuals having ownership or control
16 of the institution have experience operating an educational
17 institution or other business or enterprise in an effective manner
18 that demonstrates their capacity to operate a degree-granting
19 institution.

20 (C) Evidence that the individuals having ownership or control
21 of the institution have not engaged in fraudulent or deceptive
22 practices.

23 (D) Evidence confirming the owner's capacity to operate the
24 institution in compliance with the standards set forth in this chapter
25 and other applicable state statutes and regulations and applicable
26 federal statutes and regulations that are relevant to the operation
27 of degree-granting institutions.

28 (E) The board may cause the institution to undergo site visits
29 and provide additional reports in support of its application for
30 permanent approval to offer degrees pursuant to this article.

31 (d) If an institution is applying for approval to offer a particular
32 degree program that had not been offered at the time the institution
33 applied for approval to operate, the application for an additional
34 degree program shall be made in writing upon forms to be provided
35 by the board, and shall contain, at a minimum, all of the following
36 information:

37 (1) A catalog published, or proposed to be published, by the
38 institution containing the information specified in Section 94861
39 specific to the proposed program.

40 (2) A copy of the School Performance Fact Sheet.

- 1 (3) *For the program proposed, a description of the facilities*
2 *and the equipment that is available for use by students at the main,*
3 *branch, and satellite locations of the institution at which the*
4 *program will be taught.*
- 5 (4) *A copy of the document awarded to graduating students*
6 *upon their successful completion of the educational program.*
- 7 (e) *The application for a change of institution name shall be*
8 *made in writing upon forms to be provided by the board, and shall*
9 *contain, at a minimum, all of the following information:*
- 10 (1) *The current name, telephone number, and address of the*
11 *institution.*
- 12 (2) *The proposed name, a copy of the fictitious name statement*
13 *illustrating the new name, and the reason for the new name.*
- 14 (3) *The date on which the institution intends to begin using the*
15 *new name and a description of the actions taken to notify students*
16 *and graduates in including a copy of the notification for review.*
- 17 (f) *The application for a change in location or an additional*
18 *location shall be made in writing upon forms to be provided by*
19 *the board, and shall contain, at a minimum, all of the following*
20 *information:*
- 21 (1) *The name, current and proposed addresses, and telephone*
22 *number of the institution.*
- 23 (2) *A description of the proposed physical facilities including*
24 *the reasons why the additional location or change in location is*
25 *needed.*
- 26 (3) *For facilities that are leased or rented, the application shall*
27 *contain the name and address of the lessor or landlord, together*
28 *with a copy of any use, lease, or rental agreements for the facilities.*
- 29 (4) (A) *A description of any equipment to be used at the*
30 *proposed facilities.*
- 31 (B) *For changes of location the institution need only provide a*
32 *description of what differences, if any, from the equipment used*
33 *at the present facility to any that will be at the proposed location.*
- 34 (C) *For additional locations a description of the proposed*
35 *facility's planned utilization including the programs and degrees*
36 *that will be offered and the administrative and student services*
37 *that will be available.*
- 38 (5) *The date on which the institution intends to offer instruction*
39 *at the new location and, for changes in location, a description of*

1 *the actions taken to notify students in including a copy of the*
2 *notification for review.*

3 *(6) The distance between the approved location and the*
4 *proposed new location.*

5 *(g) The application for a change of mission or an addition or*
6 *change in methodology of instruction shall be made in writing*
7 *upon forms to be provided by the board, and shall contain, at a*
8 *minimum, all of the following information:*

9 *(1) The name, address, and telephone number of the institution.*

10 *(2) A description of the current mission and method or methods*
11 *of instruction and a description of the proposed mission or of the*
12 *new method or methods of instruction.*

13 *(3) A detailed explanation of the reasons for the proposed*
14 *change or additional methodology and how the change or changes*
15 *will affect students, administration, and the institution's financial*
16 *resources and how those effects will be monitored and evaluated,*
17 *including the process for determining whether the change achieves*
18 *the anticipated results.*

19 *(4) A description of how the institution will phase into the new*
20 *mission or the new method of instruction.*

21 *94958. (a) Nonsignificant program modifications are those*
22 *that result in less than a 25 percent change in the program's credit*
23 *hours, changes to the name of an approved program, or a change*
24 *in the agent for service of process. Although the board does not*
25 *require prior approval of nonsignificant program modifications,*
26 *an institution shall notify the board, in writing, of any of these*
27 *types of modifications.*

28 *(b) An institution shall submit a detailed description of any*
29 *nonsignificant modifications with all attachments before the*
30 *modification taking effect. In the event that it is determined that*
31 *the program modification is in fact a substantive change, an*
32 *institution shall be required to submit the appropriate substantive*
33 *change application.*

34 *(c) For the purposes of this section, a minor change in the*
35 *curriculum to accommodate new technology, advances in the field*
36 *of study, a new textbook, is not considered a change that requires*
37 *board notification.*

38 *94959. (a) No person shall own or operate a school, or give*
39 *instruction, for the driving of motortrucks of three or more axles*

1 *that are more than 6,000 pounds unladen weight, unless all of the*
2 *following conditions are met:*

3 *(1) The school or instruction has been approved by the board.*

4 *(2) The school, at the time of application and thereafter,*
5 *maintains both of the following:*

6 *(A) Proof of compliance with liability insurance requirements*
7 *that are the same as those established by the Department of Motor*
8 *Vehicles for a driving school owner, pursuant to Section 11103 of*
9 *the Vehicle Code, unless the board deems it necessary to establish*
10 *a higher level of insurance coverage.*

11 *(B) A satisfactory safety rating by the Department of the*
12 *California Highway Patrol is established pursuant to Division*
13 *14.8 (commencing with Section 34500) of the Vehicle Code.*

14 *(3) The school, at all times, shall maintain the vehicles used in*
15 *driver training in safe mechanical condition. The school shall be*
16 *enrolled and in compliance with the Biennial Inspection of*
17 *Terminals Program pursuant to subdivision (e) of Section 34501.12*
18 *of the Vehicle Code.*

19 *(4) The driving instructors meet the requirements set forth in*
20 *Section 11104 of the Vehicle Code.*

21 *(5) Any other terms and conditions required by the board to*
22 *protect the public safety or to meet the requirements of this chapter.*

23 *(b) No person shall own or operate a school, or give instruction,*
24 *intended to lead to the issuance of a Class A commercial driver's*
25 *license, unless all of the following conditions are met:*

26 *(1) The school meets the requirements of subdivision (a).*

27 *(2) At the time of application and thereafter, the school*
28 *maintains a Class A commercial driver's license curriculum that*
29 *includes all of the following:*

30 *(A) The skills or knowledge necessary to allow a student to*
31 *demonstrate competency in the following subjects:*

32 *(i) Basic operation, including control systems; vehicle*
33 *inspections; basic vehicle control; shifting, turns, and backing;*
34 *coupling and uncoupling; and highway driving.*

35 *(ii) Safe operating practices, including visual search; vehicle*
36 *communication; speed management; and space management.*

37 *(iii) Advanced operating practices, including extreme driving*
38 *conditions, and night operations; hazard perception; emergency*
39 *maneuvers; and skid prevention and recovery.*

1 (iv) *Vehicle systems and reporting malfunctions, including air*
2 *brakes; engine operation; and brake inspection.*

3 (v) *Nonvehicular activities, including handling and documenting*
4 *cargo; basic hazard material handling; hours of service*
5 *requirements; accident procedures; trip planning; communication*
6 *skills; and fatigue management.*

7 (B) *The form and manner in which the skills and knowledge*
8 *will be taught and assessed.*

9 (3) *The school assesses student competency for each of the*
10 *knowledge and skill requirements set forth in subparagraph (A)*
11 *of paragraph (2) either by observing the student performing the*
12 *skill and assessing the student's competency level, or by*
13 *administering a written knowledge test to the student.*

14 (4) *The school maintains the following documentation for each*
15 *student:*

16 (A) *The date each assessment was administered.*

17 (B) *The name of the instructor or evaluator.*

18 (C) *The score or grade of each assessment.*

19 (D) *The minimal passing score for each assessment.*

20 (E) *The competencies and performance standards evaluated in*
21 *each assessment.*

22 (5) *The school provides each prospective student with a clear*
23 *and unambiguous rate schedule documenting the cost of the*
24 *training, including all obligations relating to employment.*

25

26

Article 9. Programs

27

28 95000. (a) *It is the intent of the Legislature, in enacting this*
29 *article, to proactively enforce the provisions of this article while*
30 *implementing a less rigorous application process for registration,*
31 *thereby allowing businesses to focus on providing student services*
32 *and their promised product and, thereby, substantially benefitting*
33 *the economy and citizens of this state. It is further intended that*
34 *businesses operating under this chapter will be able to respond*
35 *to the diverse needs of the state's marketplace and service*
36 *industries by incorporating a simpler process that rewards those*
37 *that are financially responsible, well-managed, that fully disclose*
38 *the student's financial and contractual obligations, and that deliver*
39 *the training and education promised, while impeding those*

1 *businesses that fail to fulfill their contractual and ethical*
 2 *obligations to the California community.*

3 *(b) Educational services or programs, or short-term educational*
 4 *programs, that are nonacademic or non-credit-bearing in nature*
 5 *and designed to prepare students to take licensure, registration,*
 6 *or certification examinations, shall be approved by the agency*
 7 *giving the examination. Approval shall be obtained before students*
 8 *enroll in the program if possible. If not, the institution shall take*
 9 *all steps necessary to obtain approval before students enroll in*
 10 *the program.*

11 *95001. (a) A private postsecondary educational entity, or an*
 12 *institution that is exempt from this chapter, shall not offer*
 13 *educational services or programs or short-term educational*
 14 *programs, that are nonacademic or non-credit-bearing in nature*
 15 *and designed to prepare students to take licensure, registration,*
 16 *or certification examinations, unless the program has been*
 17 *approved by the agency giving the examination, or the institution*
 18 *is in the process of obtaining that approval.*

19 *(b) Any institution offering a program described in subdivision*
 20 *(a) that is not approved by the agency giving the examination shall*
 21 *disclose the following to the student in writing:*

22 *“THIS PROGRAM IS NOT APPROVED. COMPLETION OF*
 23 *THIS PROGRAM MAY NOT QUALIFY YOU TO BE LICENSED*
 24 */ CERTIFIED / REGISTERED TO WORK AS A _____. THIS*
 25 *PROGRAM IS UNDER REVIEW BY __ (professional*
 26 *agency) _____ AND IT IS EXPECTED THAT THIS*
 27 *PROGRAM WILL BE APPROVED BY __ (date) _____. YOU*
 28 *WILL BE NOTIFIED PERIODICALLY OF OUR PROGRESS IN*
 29 *GETTING THE PROGRAM APPROVED. IF THERE ARE*
 30 *DELAYS THAT MAY RESULT IN THE PROGRAM BEING*
 31 *UNAPPROVED AT THE TIME OF YOUR COMPLETION OF*
 32 *THE PROGRAM, YOU WILL BE OFFERED A PRORATED*
 33 *REFUND OF YOUR TUITION AT THAT TIME.”*

34 *(c) Any institution required to provide a notice under subdivision*
 35 *(b) shall notify the students in writing not less than monthly of the*
 36 *institution’s progress in getting the program approved. This shall*
 37 *include any delays in the approval and a dollar amount offer of a*
 38 *prorated refund of the tuition.*

39 *95002. The board may implement regulations to interpret and*
 40 *enforce this article.*

1 (2) *Second offense: a citation and fine not to exceed ____ dollars*
2 *(\$____).*

3 (3) *Third offense: a citation and fine not to exceed ____ dollars*
4 *(\$____).*

5 (4) *Subsequent ongoing offenses may be subject to criminal*
6 *prosecution as either a misdemeanor or felony, within the*
7 *discretion of the prosecutor, in accordance with Section 95077.*

8 (b) *The board may require a corrective action plan to be*
9 *adopted to resolve violations.*

10 (c) (1) *The board may move an institution from Tier 1 to Tier*
11 *2 or Tier 3, or from Tier 2 to Tier 3, as defined in Section 94955,*
12 *based on violations of this chapter.*

13 (2) *The board may also recognize corrective action and move*
14 *an institution from Tier 3 to Tier 2 or Tier 1, or from Tier 2 to Tier*
15 *1, as defined in Section 94955 based on corrective actions to*
16 *address violations of this chapter.*

17 (3) *The board shall adopt regulations by December 31, 2008,*
18 *to provide the criteria for moving an institution from one tier to*
19 *another.*

20 (d) *All citations and fines are subject to appeal through the*
21 *Office of Administrative Hearings under Chapter 4 (commencing*
22 *with Section 11400) of, and Chapter 5 (commencing with Section*
23 *11500) of, Part 1 of Division 3 or Title 2 of the Government Code.*

24 95071. (a) *The Attorney General, or any district attorney, or*
25 *city attorney, may make investigations as may be necessary to*
26 *carry out this chapter, including, but not necessarily limited to,*
27 *investigations of complaints, and may obtain from the board,*
28 *without charge, any document related to an institution that may*
29 *be useful to an investigation of that institution. The board may*
30 *jointly bring actions as necessary to enforce this chapter, including,*
31 *but not necessarily limited to, civil actions for injunctive relief. In*
32 *actions brought pursuant to this subdivision, the board shall be*
33 *represented by the Attorney General.*

34 (b) *The Attorney General shall represent the board in the*
35 *following administrative proceedings arising under this chapter:*

36 (1) *Suspension or revocation of an institution's approval.*

37 (2) *Denial of an institution's application for approval.*

38 (3) *An appeal of a conditional approval to operate issued*
39 *following a review of an institution's application for approval.*

1 (c) *Nothing in this section or this chapter shall preclude the*
2 *Attorney General, or any district attorney or city attorney, from*
3 *any of the following:*

4 (1) *Bringing any action on behalf of the people as he or she is*
5 *empowered by law to bring, including, but not necessarily limited*
6 *to, actions based upon alleged violations of Chapter 5*
7 *(commencing with Section 17200) of Part 2, and Chapter 1*
8 *(commencing with Section 17500) of Part 3, of Division 7 of the*
9 *Business and Professions Code.*

10 (2) *Conducting investigations necessary to determine whether*
11 *there have been violations of law specified in paragraph (1).*

12 (3) *Conducting any investigations that he or she is authorized*
13 *to conduct, including, but not necessarily limited to, investigations*
14 *authorized under Section 11180 of the Government Code.*

15 (4) *In the case of the Attorney General, delegating his or her*
16 *representation authority under subdivision (b) to staff attorneys*
17 *of the board.*

18 (5) *Entering into an agreement or understanding with the board*
19 *with respect to representation in any judicial or administrative*
20 *proceeding not expressly enumerated herein.*

21 95072. *No institution or representative of that institution shall*
22 *do any of the following:*

23 (a) *Operate in this state a postsecondary educational institution*
24 *not exempted from this chapter, unless the institution is currently*
25 *approved to operate pursuant to this chapter. The board may*
26 *institute an action, pursuant to this article, to prevent any*
27 *individual or entity from operating an institution or program in*
28 *this state that has not been approved to operate pursuant to this*
29 *chapter and to obtain any relief authorized by that section.*

30 (b) *Instruct or educate, or offer to instruct or educate, including*
31 *soliciting for those purposes, enroll or offer to enroll, contract or*
32 *offer to contract with any person for that purpose, or award any*
33 *educational credential, or contract with any institution, or party*
34 *to perform any act, in this state, whether that person,*
35 *representative, group, or entity is located within or without this*
36 *state, unless that person, representative, group, or entity observes*
37 *and is in compliance with the minimum standards set forth in this*
38 *article.*

- 1 (c) Use, or allow the use of, any reproduction or facsimile of
2 the Great Seal of the State of California on any diploma or
3 certificate of completion.
- 4 (d) Promise or guarantee employment.
- 5 (e) Advertise concerning job availability, degree of skill and
6 length of time required to learn a trade or skill unless the
7 information is accurate and in no way misleading.
- 8 (f) Advertise, or indicate in any promotional material, that
9 correspondence instruction, or correspondence courses of study
10 are offered without including in all advertising or promotional
11 material the fact that the instruction or programs of study are
12 offered by correspondence.
- 13 (g) Advertise, or indicate in any promotional material, that
14 resident instruction, or programs of study are offered without
15 including in all advertising or promotional material the location
16 where the training is given or the location of the resident
17 instruction.
- 18 (h) Solicit students for enrollment by causing any advertisement
19 to be published in “help wanted” columns in any magazine,
20 newspaper, or publication or use “blind” advertising that fails to
21 identify the school or institution.
- 22 (i) Advertise, or indicate in any promotional material, that the
23 institution is accredited, unless the institution has been recognized
24 or approved as meeting the standards established by an accrediting
25 agency recognized by the United States Department of Education
26 or the Committee of Bar Examiners for the State of California.
- 27 (j) Fail to comply with federal requirements relating to the
28 disclosure of information to students.
- 29 (k) Discontinuance of, or change in, an approved institutional
30 operation such as closure of a branch or satellite, without prior
31 notification to, and approval by, the board.
- 32 (l) An institution that offers ESL instruction, Intensive English
33 language program, or an educational service approved by the
34 United States Immigration and Naturalization Service to a student
35 shall not enroll the student in any educational service presented
36 in the English language unless the student passes a test indicating
37 that he or she has attained adequate proficiency in oral and written
38 English to comprehend instruction in English.
- 39 95073. (a) No institution or representative of an institution
40 shall make or cause to be made any statement that is in any manner

1 *untrue or misleading, either by actual statement, omission, or*
2 *intimation.*

3 *(b) No institution or representative of an institution shall engage*
4 *in any false, deceptive, misleading, or unfair act in connection*
5 *with any matter, including the institution's advertising and*
6 *promotion, the recruitment of students for enrollment in the*
7 *institution or program, the offer or sale of a program of instruction,*
8 *course length, course credits, the withholding of equipment,*
9 *educational materials, or loan or grant funds from a student,*
10 *training and instruction, the collection of payments, or job*
11 *placement.*

12 *(c) An institution is liable in any civil or administrative action*
13 *or proceeding for any violation of this article committed by a*
14 *representative of the institution. An institution is liable in a*
15 *criminal action for violations of this article committed by a*
16 *representative of the institution to the extent permitted by law.*

17 *(d) (1) institution or representative of an institution shall induce*
18 *a person to enter into an agreement for a program of instruction*
19 *by offering to compensate that person to act as the institution's*
20 *representative in the solicitation, referral, or recruitment of others*
21 *for enrollment in the institution or program.*

22 *(2) No institution or representative of an institution shall offer*
23 *to pay, or pay, any consideration to a student or prospective*
24 *student to act as a representative of the institution with regard to*
25 *the solicitation.*

26 *(e) No institution shall compensate a representative involved*
27 *in recruitment, enrollment, admissions, student attendance, or*
28 *sales of equipment to students on the basis of a commission,*
29 *commission draw, bonus, quota, or other similar method except*
30 *as follows:*

31 *(1) If the program of instruction is scheduled to be completed*
32 *in more than 90 days, the institution shall pay compensation related*
33 *to a particular student as follows:*

34 *(A) No compensation shall be paid for at least 90 days after*
35 *that student has begun the program.*

36 *(B) Up to one-half of the compensation may be paid before the*
37 *student completes the program only if the student has made*
38 *satisfactory academic progress, documented by the institution in*
39 *the student's file, for more than 90 days.*

1 (C) *The remainder of the compensation shall be paid only after*
2 *the student's completion of the program. This subdivision shall*
3 *not prevent the payment at any time of an hourly, weekly, monthly,*
4 *or annual wage or salary.*

5 (f) *No institution or representative of an institution shall pay*
6 *any consideration to a person to induce that person to sign an*
7 *agreement for a program of instruction.*

8 (g) (1) *No institution or representative of an institution shall in*
9 *any manner make any untrue or misleading change in, or untrue*
10 *or misleading statement related to, any test score, grade, record*
11 *of grades, attendance record, record indicating student completion*
12 *or employment, financial information, including any of the*
13 *following:*

14 (A) *Any financial report required to be filed pursuant to Sections*
15 *94853 to 94808, inclusive.*

16 (B) *Any information or record relating to the student's eligibility*
17 *for financial assistance or attendance at the institution.*

18 (C) *Any other record or document required by this chapter or*
19 *by the board.*

20 (2) *No institution or representative of an institution shall falsify,*
21 *destroy, or conceal any record or other item described in*
22 *paragraph (1) while that record or item is required to be*
23 *maintained by this chapter or by the board.*

24 (h) *No institution or representative of an institution shall use*
25 *the terms "approval," "approved," "approval to operate," or*
26 *"approved to operate" without stating clearly and conspicuously*
27 *that approval to operate means compliance with minimum state*
28 *standards and does not imply any endorsement or recommendation*
29 *by the state or by the board.*

30 (1) *The institution or its programs of instruction are endorsed*
31 *or recommended by the state or by the board.*

32 (2) *The board's grant to the institution of approval to operate*
33 *indicates that the institution exceeds minimum state standards.*

34 (3) *The board or the state endorses or recommends the*
35 *institution.*

36 (j) *No institution offering programs or courses of instruction*
37 *represented to lead to occupations or job titles requiring licensure*
38 *shall enter into an agreement for a course of instruction with a*
39 *person whom the institution knows or, by the exercise of reasonable*
40 *care, should know, would be ineligible to obtain licensure in the*

1 *occupation or job title to which the course of instruction is*
2 *represented to lead, at the time of the scheduled date of course*
3 *completion, for reasons such as age, physical characteristics, or*
4 *relevant past criminal conviction.*

5 *(k) No institution shall divide or structure a program of*
6 *instruction or educational service to avoid the application of any*
7 *provision of this chapter.*

8 *(l) No institution or representative of an institution shall direct*
9 *a representative to perform any unlawful act, to refrain from*
10 *complaining or reporting unlawful conduct to the board or another*
11 *government agency, or to engage in any unfair act to persuade a*
12 *student not to complain to the board or another government*
13 *agency.*

14 *(m) No institution or representative of an institution approved*
15 *to operate a school or give instruction under this chapter shall do*
16 *either of the following:*

17 *(1) Reduce the wages of a trainee in order to recover the cost*
18 *of training unless the trainee is advised of the payment*
19 *arrangement before accepting employment.*

20 *(2) Advertise its training as free or no cost if a trainee is*
21 *required to enter into an employment arrangement or lease or rent*
22 *services or equipment, including a motortruck, as a condition of*
23 *receiving the training.*

24 *95074. The board may refuse to issue or renew any private*
25 *postsecondary educational institution's approval to operate, place*
26 *an institution on probation, or may revoke any approval to operate*
27 *for any of the following causes:*

28 *(a) A violation of this chapter, or any standard, rule, or*
29 *regulation established under this chapter, or an order of the board*
30 *made under this chapter.*

31 *(b) Furnishing false, misleading, or incomplete information to*
32 *the board, or the failure to furnish information requested by the*
33 *board or required by this chapter.*

34 *(c) A finding that an owner, a person in control, a secretary, or*
35 *an officer of an institution is not in compliance with this chapter*
36 *or was not in compliance with applicable law while serving as an*
37 *owner, person in control, secretary, or officer of an institution*
38 *within the previous five-year period.*

39 *(d) A finding that a signatory to an application for an approval*
40 *to operate was responsible for the closure of any institution in*

1 *which there were unpaid liabilities to any state or federal*
2 *government, or uncompensated pecuniary losses suffered by*
3 *students without restitution.*

4 *(e) A finding that the applicant, owner, or persons in control*
5 *have been found previously in any judicial or administrative*
6 *procedure to have violated this chapter or admitted to having*
7 *violated this chapter.*

8 *(f) A finding that there was either a denial of a previous*
9 *application submitted by the same institution to the board or its*
10 *predecessor, the board, or a revocation of the institution's approval*
11 *and that the conditions or violations that were the cause of the*
12 *denial or revocation have not been corrected.*

13 *(g) The failure of the institution to maintain the minimum*
14 *educational standards prescribed by this chapter, or to maintain*
15 *standards that are the same as, or substantially equivalent to,*
16 *those represented in the school's applications and advertising.*

17 *(h) Presenting to prospective students information that is false*
18 *or misleading relating to the school, to employment opportunities,*
19 *or to enrollment opportunities in institutions of higher learning*
20 *after entering into or completing courses offered by the school.*

21 *(i) The failure to maintain financial resources adequate for the*
22 *satisfactory conduct of the courses of instruction offered as*
23 *required by statute.*

24 *(j) The failure to provide timely and correct refunds to students.*

25 *(k) Paying a commission or valuable consideration to any*
26 *persons for acts or services in violation of this chapter.*

27 *(l) Attempting to confer a degree, diploma, or certificate to any*
28 *student in violation of this chapter.*

29 *(m) Misrepresenting to any students or prospective students*
30 *that they are qualified, upon completion of any course, for*
31 *admission to professional examination under any state*
32 *occupational licensing provision.*

33 *(n) The failure to correct any deficiency or act of noncompliance*
34 *under this chapter, or the standards, rules, regulations, and orders*
35 *established and adopted under this chapter within reasonable time*
36 *limits set by the board.*

37 *(o) The conducting of business or instructional services at any*
38 *location not approved by the board.*

39 *(p) Failure on the part of an institution to comply with*
40 *provisions of law or regulations governing sanitary conditions of*

1 *that institution specified in Division 2 (commencing with Section*
2 *500) and Division 3 (commencing with Section 5000) of the*
3 *Business and Professions Code.*

4 *(q) The failure to pay any fees, orders for costs and expenses*
5 *under Section 95077, assessments, or penalties owed to the board,*
6 *as provided in this chapter.*

7 *95075. (a) The Attorney General shall act as legal counsel*
8 *for the board for any judicial and administrative proceedings, and*
9 *his or her services shall be charged against the board.*

10 *(b) The board shall review and investigate all institutions, and*
11 *may review and investigate all programs, and programs of*
12 *instruction approved under this chapter. Consideration in the*
13 *scheduling of reviews and investigations shall be afforded to*
14 *student complaints and information collected by the Attorney*
15 *General, the Student Aid Commission, or any other federal, state,*
16 *or local agency.*

17 *(c) The board shall conduct periodic unannounced reviews and*
18 *investigations of institutions to determine compliance with this*
19 *chapter.*

20 *(d) If there is reasonable cause to believe that there has been*
21 *a violation by a private postsecondary educational institution of*
22 *the standards prescribed by this chapter, the board shall conduct*
23 *an investigation of the institution.*

24 *(e) The board may direct staff and any other authorized person*
25 *or persons to investigate alleged violations.*

26 *(f) The board reserves the right to impanel a visiting committee*
27 *to review allegations of noncompliance committed by an institution.*
28 *The scope and composition of the visiting committee shall be at*
29 *the discretion of the board.*

30 *(g) At the board's request in connection with an investigation*
31 *to determine compliance with this chapter, an institution, during*
32 *its normal business hours, shall immediately make available for*
33 *inspection and copying all records required to be maintained by*
34 *this chapter or that relate to the institution's compliance with this*
35 *chapter. The institution shall permit the board's representatives*
36 *to have immediate access to the institution's primary administrative*
37 *location and sites of instruction during the institution's normal*
38 *business hours to examine and copy these records, to inspect the*
39 *institution's physical facilities, equipment, library and other*

1 *learning resources, and to interview school administrators, faculty,*
2 *and students.*

3 *(h) The attorney general of this state at the request of the board*
4 *may bring appropriate action or proceeding (including injunctive*
5 *proceedings, or criminal proceedings), in any court of competent*
6 *jurisdiction for the enforcement of the provisions of this chapter.*

7 *(i) Notwithstanding any other provision of law, the Attorney*
8 *General and his or her investigative agents, and investigators and*
9 *representatives of the board, may inquire into any alleged violation*
10 *of this chapter.*

11 *95076. (a) Within 30 days of any action by any accrediting*
12 *agency that establishes, reaffirms, or publicly sanctions the*
13 *accreditation of any private postsecondary educational institution*
14 *operating in the state, the accrediting agency shall notify the board*
15 *of that action and shall provide a copy of any public statements*
16 *regarding the reasons for the accrediting agency's action.*

17 *(b) If the board, the Attorney General, any district attorney or*
18 *city attorney, or the Student Aid Commission is conducting a*
19 *confidential investigation of an institution and so informs the*
20 *accrediting agency, the accrediting agency shall not inform that*
21 *institution or registrant of the investigation.*

22 *(c) If an accrediting agency willfully fails to comply with this*
23 *section, the accrediting agency shall be liable for a civil penalty*
24 *of not less than two thousand five hundred dollars (\$2,500) or*
25 *more than twenty-five thousand dollars (\$25,000) for each*
26 *violation. Penalties awarded pursuant to this section shall be*
27 *deposited in the Private Postsecondary Education Administration*
28 *Fund, or any successor fund, and shall be deposited in the*
29 *appropriate account, pursuant to Article 5 (commencing with*
30 *Section 94820).*

31 *95077. (a) Any person who, or any business entity, regardless*
32 *of the form of organization, that, willfully violates this chapter is*
33 *guilty of a crime, and shall be subject to separate punishment for*
34 *each violation either by imprisonment in a county jail not to exceed*
35 *one year, by a fine not to exceed ten thousand dollars (\$10,000),*
36 *or by both that imprisonment and fine; or by imprisonment in the*
37 *state prison, by a fine not to exceed fifty thousand dollars*
38 *(\$50,000), or by both that imprisonment and fine.*

1 (b) Notwithstanding any other law, any prosecution under this
2 section shall be commenced within three years of the discovery of
3 the facts constituting grounds for commencing the prosecution.

4 (c) The penalties provided by this section supplement, but do
5 not supplant, the remedies and penalties provided under other
6 law.

7 (d) In addition to any other fines or penalties imposed pursuant
8 to this section, any person or business entity found guilty of a crime
9 as described in subdivision (a) shall be ordered to pay the Attorney
10 General, any district attorney, or any city attorney all of their costs
11 and expenses in connection with any investigation incident leading
12 to that prosecution. An institution shall not be required to pay the
13 same costs and expenses to more than one investigating agency.

14 95078. Before any institution may be considered for approval
15 or renewal of approval to operate, the institution, at a minimum,
16 shall pay all annual fees, assessments to the Student Tuition
17 Recovery Fund, orders for costs and expenses under Section 95077,
18 and penalties in arrears retroactive to January 1, 1990. If an
19 institution that has failed to make timely payments of fees and
20 assessments is approved, the application for approval shall be
21 denied without appeal and the approval shall be terminated.

22 95079. (a) If an institution does not comply with Section 94853,
23 the board may do any, or any combination of, the following:

24 (1) Require the institution to establish and implement a financial
25 plan to ensure compliance with Section 94853.

26 (2) Require the institution to post satisfactory security for the
27 performance of its financial obligations pursuant to Section 94853.

28 (3) Require the institution to furnish additional information
29 such as an audit report of financial statements prepared by a
30 California licensed certified public accountant who is not an
31 employee, officer, or director of the institution.

32 (b) In any action or proceeding involving an institution's failure
33 to comply with Section 94853, there shall be a presumption
34 affecting the burden of proof that the institution does not have
35 sufficient financial resources if the institution fails to meet any of
36 the standards set forth in Section 94853.

37 95080. If any person willfully violates this chapter and the
38 violation results in the closure of an institution, that person shall
39 pay to all students of the closed institution full refunds or full

1 *compensation for actual damages resulting from the closure that*
2 *were not paid by the closed institution.*

3 95081. (a) *If an institution violates a provision of this article*
4 *or commits an act in violation of Section 94864 or 95085 in*
5 *connection with an agreement for a program of instruction, that*
6 *agreement shall be unenforceable, and the institution shall refund*
7 *all consideration paid by or on behalf of the student.*

8 (b) *Notwithstanding any provision in an agreement, a student*
9 *may bring an action for a violation of this article or Section 94864*
10 *or 95085 for an institution's failure to perform its legal obligations*
11 *and, upon prevailing, shall be entitled to the recovery of damages,*
12 *equitable relief, any other relief authorized by this article, and*
13 *reasonable attorney's fees and costs.*

14 (c) *If a court finds that a violation was willfully committed or*
15 *that the institution failed to refund all consideration as required*
16 *by subdivision (a) on the student's written demand, the court, in*
17 *addition to the relief awarded under subdivision (b), shall award*
18 *a civil penalty of up to three times the amount of the damages*
19 *sustained by the student.*

20 (d) *The remedies provided in this article supplement, but do not*
21 *supplant, the remedies provided under other provisions of law.*

22 (e) *An action brought under this section shall be commenced*
23 *within three years of the discovery of the facts constituting grounds*
24 *for commencing the action.*

25 (f) *Any provision in any agreement that purports to require a*
26 *student to invoke any grievance dispute procedure established by*
27 *the institution or any other procedure before bringing an action*
28 *to enforce any right or remedy is void and unenforceable.*

29 (g) *A student may assign his or her causes of action for a*
30 *violation of this article to the board, or to any state or federal*
31 *agency that guaranteed or reinsured a loan for the student or*
32 *provided any grant or other financial aid.*

33 95082. (a) *The Attorney General, or any district attorney, or*
34 *city attorney, may make investigations as may be necessary to*
35 *carry out this chapter, including, but not necessarily limited to,*
36 *investigations of complaints. The board may jointly bring actions*
37 *as necessary to enforce this chapter, including, but not necessarily*
38 *limited to, civil actions for injunctive relief. In actions brought*
39 *pursuant to this subdivision, the Attorney General shall represent*
40 *the board.*

1 (b) The Attorney General shall represent the board in the
2 following administrative proceedings arising under this chapter:

3 (1) Revocation of an institution's approval to operate or
4 revocation of a specific program or location approval.

5 (2) Denial of an institution's application for approval or a
6 denial of an additional program, change of location, change of
7 name, change of methodology, or an addition of a branch or
8 satellite.

9 (3) An appeal of a conditional approval to operate or probation.

10 (c) Nothing in this section or this chapter shall preclude the
11 Attorney General, or any district attorney or city attorney, from
12 any of the following:

13 (1) Bringing any action on behalf of the people as he or she is
14 empowered by law to bring, including, but not necessarily limited
15 to, actions based upon alleged violations of Chapter 5
16 (commencing with Section 17200) of Part 2, and Chapter 1
17 (commencing with Section 17500) of Part 3, of Division 7 of the
18 Business and Professions Code.

19 (2) Conducting investigations necessary to determine whether
20 there have been violations of law described in paragraph (1).

21 (3) Conducting any investigations that he or she is authorized
22 to conduct, including, but not necessarily limited to, investigations
23 authorized under Section 11180 of the Government Code.

24 (4) In the case of the Attorney General, delegating his or her
25 representation authority under subdivision (b) to staff attorneys
26 of the board.

27 (5) Entering into an agreement or understanding with the board
28 with respect to representation in any judicial or administrative
29 proceeding not expressly enumerated herein.

30 (6) Bringing an action for equitable relief for any violation of
31 this chapter. The equitable relief may include restitution, a
32 temporary restraining order, the appointment of a receiver, and
33 a preliminary or permanent injunction. The action may be brought
34 in the county in which the defendant resides or in which any
35 violation has occurred or may occur.

36 (d) The remedies provided in this section supplement, but do
37 not supplant, the remedies and penalties under other law.

38 95083. (a) In addition to or in lieu of any other remedy or
39 penalty, the board may issue a citation to an institution for

1 committing any violation of this chapter or regulation adopted
2 under this chapter.

3 (b) The citation may contain an order of abatement or the
4 assessment of an administrative fine. The administrative fine shall
5 not exceed two thousand five hundred dollars (\$2,500) for each
6 violation. The board shall base its assessment of the administrative
7 fine on the nature and seriousness of the violation, the persistence
8 of the violation, the good faith of the institution, the history of
9 previous violations, and the purposes of this chapter.

10 (c) Citations shall be issued to institutions by the director for
11 failure to meet procedural requirements of the act. For the
12 purposes of this section, the board designates the following offenses
13 for violations with an accompanying penalty:

14 (1) Failure to notify the board of a change of location for a
15 “main,” “branch,” or “satellite” or an offering educational
16 services at an unapproved location carries a fine of five hundred
17 dollars (\$500) per occurrence.

18 (2) Failure to notify the board of a change of program title or
19 an additional program carries a fine of one thousand dollars
20 (\$1,000) per occurrence.

21 (3) Failure to provide access to board representatives to inspect
22 the institution for the purpose of an scheduled or unscheduled on
23 site visit during “normal” business hours carries a fine of five
24 hundred dollars (\$500) per occurrence.

25 (4) Issuance of a worthless bank check to the board carries a
26 fine of one hundred dollars (\$100) per occurrence.

27 (5) Failure to provide a written response to a complaint filed by
28 the board on behalf of a student complainant carries a fine of five
29 hundred dollars (\$500) per occurrence.

30 (d) The remedies provided in this section supplement, but do
31 not supplant, the remedies and penalties under other provisions
32 of law.

33 (e) The citation shall be in writing and shall describe the nature
34 of the violation and the specific provision of law that was violated.
35 The citation shall inform the institution of its right to request a
36 hearing in writing within 15 days of the date that the citation was
37 issued. If a hearing is not requested, payment of the administrative
38 fine shall not constitute an admission of the violation charged. If
39 a hearing is requested, the board shall provide a hearing. Payment
40 of the administrative fine is due 15 days after the citation was

1 *issued if a hearing is not requested, or when a final order is entered*
2 *if a hearing is requested. The board may enforce the administrative*
3 *fine as if it were a money judgment pursuant to Title 9*
4 *(commencing with Section 680.10) of Part 2 of the Code of Civil*
5 *Procedure.*

6 *(f) All administrative fines shall be deposited in the Private*
7 *Postsecondary and Vocational Education Administration Fund in*
8 *the appropriate account, pursuant to Article 5 (commencing with*
9 *Section 94820).*

10 95085. *(a) Any institution that willfully violates any provision*
11 *of this chapter shall not enforce any contract or agreement arising*
12 *from the transaction in which the violation occurred, and any*
13 *willful violation is a ground for revoking an approval to operate*
14 *in this state or for denying a renewal application.*

15 *(b) Any person who claims that an institution is operating in*
16 *violation this chapter, or an institution is operating a branch or*
17 *satellite campus in violation of this chapter, may bring an action,*
18 *in a court of competent jurisdiction, for the recovery of actual and*
19 *or statutory damages as well as an equity proceeding to restrain*
20 *and enjoin those violations, or both.*

21 *(1) At least 35 days before the commencement of an action*
22 *pursuant to this subdivision, the plaintiff shall do all of the*
23 *following:*

24 *(A) Notify the institution alleged to have violated this chapter,*
25 *of the particular alleged violations.*

26 *(B) Demand that the institution apply for the board's approval*
27 *to operate as required by Article 8 (commencing with Section*
28 *94950).*

29 *(C) The notice shall be in writing, and shall be sent by regular*
30 *mail and certified or registered mail, return receipt requested, to*
31 *the location of the institution that is allegedly operating in violation*
32 *of Article 8 (commencing with Section 94950).*

33 *(D) The institution shall have 30 working days, from receipt of*
34 *the notice, to file an application for approval to operate with the*
35 *board.*

36 *(E) No action pursuant to this subdivision may be filed if the*
37 *institution, within 30 working days after receipt of the notice,*
38 *applies for the board's approval to operate as required by Article*
39 *8 (commencing with Section 94950).*

1 (F) If, within 35 days after receipt of the notice, the board has
2 not received an application from the institution, the board shall
3 mail the plaintiff a certification that the institution has not applied
4 or been approved to operate pursuant to Article 8 (commencing
5 with Section 94950).

6 (G) (1) The plaintiff shall also notify the board, by certified or
7 registered mail, return receipt requested, that he or she intends to
8 bring an action pursuant to this section against the institution.
9 Upon receipt of this notice, the board shall immediately investigate
10 the institution's compliance with Article 6 (commencing with
11 Section 94850), Article 7 (commencing with Section 94900), or
12 Article 10 (commencing with Section 95000), whichever is
13 applicable, and, if the board determines that the institution has
14 violated the applicable section, the board shall immediately order
15 the institution to cease and desist operations. For each day that
16 the institution continues to operate in violation of the board's
17 cease and desist order, the institution shall be fined one thousand
18 dollars (\$1,000).

19 (2) If the court finds that the institution has violated this chapter,
20 all of the following shall occur:

21 (A) The court shall order the institution to cease all operations
22 and to comply with all procedures set forth in this code pertaining
23 to the closure of institutions.

24 (B) The court shall order the institution to pay all students who
25 enrolled while the school was in violation, a refund of all tuition
26 and fees paid to the institution and a statutory penalty of one
27 thousand dollars (\$1,000).

28 (C) The court shall order the institution to pay the prevailing
29 party's attorneys' fees and costs.

30 (D) The court shall order the institution to pay to the board all
31 fines incurred pursuant to subparagraph (E) of paragraph (1).

32 (E) Any instrument of indebtedness, enrollment agreement, or
33 contract for educational services is unenforceable pursuant to
34 Section 94869. The court shall order the institution to mail a notice
35 to all students who were enrolled while the school was in, stating
36 that instruments of indebtedness, enrollment agreements, and
37 contracts for educational services are not enforceable. If the
38 institution fails to provide adequate proof to the court and to the
39 board that it has mailed this notice within 30 days of the court's
40 order, the board shall mail the notice to the students and the court

1 shall order the institution to pay the board's costs of generating
2 and mailing the notices, in no case less than five thousand dollars
3 (\$5,000).

4 (3) Any violation of this chapter shall constitute an unfair
5 business practice within the meaning of Section 17200 of the
6 Business and Professions Code.

7 (4) A certification, issued by the board, that the institution has
8 not applied for approval to operate and has not been approved to
9 operate as required by Article 8 (commencing with Section 94950),
10 shall establish a conclusive presumption that the institution has
11 violated this subdivision.

12 (5) All fines and other monetary amounts that an institution is
13 ordered to pay pursuant to this subdivision may be collected from
14 the institution itself and from the individuals who own the
15 institution, whether or not the institution is organized as a
16 corporation.

17 (c) Notwithstanding any provision of the contract or agreement,
18 a student may bring an action for a violation of this article or for
19 an institution's failure to perform its legal obligations and, upon
20 prevailing thereon, is entitled to the recovery of damages, equitable
21 relief, or any other relief authorized by this article, and reasonable
22 attorney's fees and costs.

23 (d) If a court finds that a violation was willfully committed or
24 that the institution failed to refund all consideration as required
25 by subdivision (b) on the student's written demand, the court, in
26 addition to the relief authorized under subdivision (b), shall award
27 a civil penalty of up to two times the amount of the damages
28 sustained by the student.

29 (e) The remedies provided in this article supplement, but do not
30 supplant, the remedies provided under any other provision of law.

31 (f) An action brought under this section shall be commenced
32 within three years of the discovery of the facts constituting grounds
33 for commencing the action.

34 (g) Any provision in any agreement that purports to require a
35 student to invoke any grievance dispute procedure established by
36 the institution before enforcing any right or remedy is void and
37 unenforceable.

38 (h) A student may assign his or her cause of action for a
39 violation of this article to the board, or to any state or federal

1 agency that guaranteed or reinsured a loan for the student or that
2 provided any grant or other financial aid.

3 (i) This section applies to any action pending on the January
4 1, 2008.

5 (j) This section supplements, but does not supplant, the authority
6 granted the Division of Labor Standards Enforcement under
7 Chapter 4 (commencing with Section 79) of Division 1 of the Labor
8 Code to the extent that placement activities of trade schools are
9 subject to regulation by the division under the Labor Code.

10 95086. (a) No note, other instrument of indebtedness, or
11 contract relating to payment for educational services shall be
12 enforceable by any institution within or outside this state governed
13 by this chapter unless at the time of execution of that note, other
14 instrument of indebtedness, or contract, the institution has a valid
15 approval to operate pursuant to this chapter.

16 (b) No note, other instrument of indebtedness, or contract
17 relating to payment for educational services shall be enforceable
18 by any institution within or outside this state governed by this
19 chapter unless the representative, who enrolled persons to whom
20 educational services were to be rendered or to whom degrees or
21 diplomas were to be granted pursuant to this chapter, held a valid
22 permit at the time of execution of the note, other instrument of
23 indebtedness, or contract.

24

25 Article 13. Student Tuition Recovery Fund

26

27 95100. (a) On and after January 1, 2008, the Student Tuition
28 Recovery Fund, shall be administered by the Board of Private
29 Postsecondary Education. All assessments collected pursuant to
30 Section 95102 shall be credited to the fund, along with any interest
31 on the moneys, for the administration of this article.
32 Notwithstanding Section 13340 of the Government Code, the
33 moneys in the fund are continuously appropriated to the board
34 without regard to fiscal years for the purposes of this chapter. For
35 institutions approved under any provision of this chapter, for the
36 purpose of relieving or mitigating pecuniary losses suffered by
37 any California resident who is a student of an approved institution
38 and who meets either of the following conditions:

39 (1) (A) The student was enrolled in an institution, prepaid
40 tuition, and suffered loss as a result of any of the following:

1 (i) *The closure of the institution.*

2 (ii) *The institution's failure to pay refunds or charges on behalf*
3 *of a student to a third party for license fees or any other purposes,*
4 *or to provide equipment or materials for which a charge was*
5 *collected within 180 days before the closure of the institution.*

6 (iii) *The institution's failure to pay or reimburse loan proceeds*
7 *under a federally guaranteed student loan program as required*
8 *by law or to pay or reimburse proceeds received by the institution*
9 *before closure in excess of tuition and other costs.*

10 (iv) *The institution's breach or anticipatory breach of the*
11 *agreement for the course of instruction.*

12 (v) *A decline in the quality or value of the course of instruction*
13 *within the 30-day period before the closure of the institution or,*
14 *if the decline began before that period, the period of decline*
15 *determined by the board.*

16 (vi) *The commission of a fraud by the institution during the*
17 *solicitation or enrollment of, or during the program participation*
18 *of, the student.*

19 (B) *For the purposes of this section, "closure" includes closure*
20 *of a branch or satellite campus, the termination of either the*
21 *correspondence or residence portion of a home study or*
22 *correspondence course, and the termination of a course of*
23 *instruction for some or all of the students enrolled in the course*
24 *before the time these students were originally scheduled to*
25 *complete it, or before a student who has been continuously enrolled*
26 *in a course of instruction has been permitted to complete all the*
27 *educational services and classes that comprise the course.*

28 (2) *The student obtained a judgment against the institution for*
29 *any violation of this chapter, and the student certifies that the*
30 *judgment cannot be collected after diligent collection efforts. A*
31 *court judgment obtained under this paragraph shall be paid in*
32 *accordance with paragraph (1) of subdivision (f), unless the*
33 *judgment indicates that a lesser amount is due.*

34 (b) *Payments from the fund to any student shall be subject to*
35 *any regulations and conditions prescribed by the board.*

36 (c) (1) (A) *The institution shall provide to the board, at the*
37 *time of the institution's closure, the names and addresses of*
38 *persons who were students of an institution within 60 days before*
39 *its closure, and shall notify these students, within 30 days of the*
40 *institution's closure, of their rights under the fund and how to*

1 apply for payment. If the institution fails to comply with this
2 subdivision, the board shall attempt to obtain the names and
3 addresses of these students and shall notify them, within 90 days
4 of the institution's closure, of their rights under the fund and how
5 to apply for payment. This notice shall include the explanation
6 and the claim form described in subparagraph (B).

7 (B) The board shall develop a form in English and Spanish fully
8 explaining a student's rights, that shall be used by the institution
9 or the board to comply with the requirements of subparagraph
10 (A). The form shall include, or be accompanied by, a claim
11 application and an explanation of how to complete the application.

12 (2) (A) If an institution fails to comply with paragraph (1), the
13 board shall order the institution, or any person responsible for
14 the failure to provide notice as required by paragraph (1), to
15 reimburse the board for all reasonable costs and expenses incurred
16 in notifying students as required in paragraph (1). In addition, the
17 board may impose a penalty of up to five thousand dollars (\$5,000)
18 against the institution and any person found responsible for the
19 failure to provide notice. The amount of the penalty shall be based
20 on the degree of culpability and the ability to pay. Any order may
21 impose joint and several liabilities. Before any order is made
22 pursuant to this paragraph, the board shall provide written notice
23 to the institution and any person from whom the board seeks
24 recovery of the board's claim and of the right to request a hearing
25 within 30 days of the service of the notice.

26 (B) If a hearing is not requested within 30 days of service of the
27 notice, the board may order payment in the amount of the claim.
28 If a hearing is requested, Chapter 5 (commencing with Section
29 11500) of Part 1 of Division 3 of Title 2 of the Government Code
30 shall apply, and the board shall have all of the powers therein
31 prescribed. Within 30 days after the effective date of the issuance
32 of an order, the board may enforce the order in the same manner
33 as if it were a money judgment pursuant to Title 9 (commencing
34 with Section 680.010) of Part 2 of the Code of Civil Procedure.
35 All penalties and reimbursements paid pursuant to this section
36 shall be deposited in the Postsecondary Education Administration
37 Fund established pursuant to Article 5 (commencing with Section
38 94820).

1 *(d) (1) Students entitled to payment as provided in paragraph*
2 *(1) of subdivision (a) shall file with the board a verified application*
3 *indicating each of the following:*

4 *(A) The student's name, address, telephone number, and social*
5 *security number.*

6 *(B) If any portion of the tuition was paid from the proceeds of*
7 *a loan, the name of the lender, and any state or federal agency*
8 *that guaranteed or reinsured the loan.*

9 *(C) The amount of the paid tuition, the amount and description*
10 *of the student's loss, and the amount of the student's claim.*

11 *(D) The date the student started and ceased attending the*
12 *institution.*

13 *(E) A description of the reasons the student ceased attending*
14 *the institution.*

15 *(F) If the student ceased attending because of a breach or*
16 *anticipatory breach or because of the decline in the quality or*
17 *value of the course of instruction as described in clause (v) of*
18 *subparagraph (A) of paragraph (1) of subdivision (a), a statement*
19 *describing in detail the nature of the loss incurred. The application*
20 *shall be filed within one year from the date of the notice, as*
21 *described in paragraph (1) of subdivision (c). If no notice is*
22 *received by the student from the board soon after the school closes,*
23 *the application shall be filed within four years of the institution's*
24 *closure, or within two years of the student's or former student's*
25 *receipt of an explanation of his or her rights and a claim form,*
26 *whichever of those claim periods expires later. The two-year claim*
27 *period shall begin on the day the student or former student receives*
28 *from the board both an explanation regarding how to file a claim*
29 *and a claim application, as provided in subparagraph (B) of*
30 *paragraph (1) of subdivision (c), or on the day the second of the*
31 *two documents is received, if they are received on different dates.*
32 *If the claimant's primary language is Spanish, or a language other*
33 *than English, the notice and explanation shall be sent in Spanish*
34 *or the primary language of the student.*

35 *(G) Nothing in this subdivision shall preclude the filing of a*
36 *single, unified application that aggregates the claims of similarly*
37 *situated students.*

38 *(2) (A) Students entitled to payment as provided in paragraph*
39 *(2) of subdivision (a) shall file with the board a verified application*
40 *indicating the student's name, address, telephone number, and*

1 social security number, the amount of the judgment obtained
2 against the institution, a statement that the judgment cannot be
3 collected, and a description of the efforts attempted to enforce the
4 judgment. A copy of the judgment and any other documents
5 indicating the student's efforts made to enforce the judgment shall
6 accompany the application.

7 (B) The application shall be filed within two years after the date
8 upon which the judgment became final.

9 (3) The board may require additional information designed to
10 facilitate payment to entitled students. The board shall waive the
11 requirement that a student provide all of the information required
12 by this subdivision if the board has the information or the
13 information is not reasonably necessary for the resolution of a
14 student's claim.

15 (4) Nothing in this subdivision shall be construed to preclude
16 the filing of a single, unified application that aggregates the claims
17 of similarly situated students.

18 (e) Within 60 days of the board's receipt of a completed
19 application for payment, the board shall pay the claim from the
20 Student Tuition Recovery Fund or deny the claim. The board, for
21 good cause, may extend the time period for up to an additional 90
22 days to investigate the accuracy of the claim.

23 (f) (1) If the board pays the claim, the amount of the payment
24 shall be (A) the greater of either (i) the total guaranteed student
25 loan debt incurred by the student in connection with attending the
26 institution, or (ii) the total of the student's tuition and the cost of
27 equipment and materials related to the course of instruction, less
28 (B) the amount of any refund, reimbursement, indemnification,
29 restitution, compensatory damages, settlement, debt forgiveness,
30 discharge, cancellation, or compromise, or any other benefit
31 received by, or on behalf of, the student before the board's payment
32 of the claim in connection with the student loan debt or cost of
33 tuition, equipment, and materials. The payment also shall include
34 the amount the institution collected and failed to pay to third
35 parties on behalf of the student for license fees or any other
36 purpose. However, if the claim is based solely on the circumstances
37 described in subparagraph (B) or (C) of paragraph (1) of
38 subdivision (a), the amount of the payment shall be the amount of
39 the loss suffered by the student. In addition to the amount
40 determined under this paragraph, the amount of the payment shall

1 *include all interest and collection costs on all student loan debt*
2 *incurred by the student in connection with attending the institution.*

3 *(2) The board may reduce the total amount specified in*
4 *paragraph (1) by the value of the benefit, if any, of the education*
5 *obtained by the student before the closure of the institution. If the*
6 *board makes any reduction pursuant to this paragraph, the board*
7 *shall notify the claimant in writing, at the time the claim is paid,*
8 *on the basis of its decision and provide a brief explanation of the*
9 *reasons upon which the board relied in computing the amount of*
10 *the reduction.*

11 *(3) No reduction shall be made to the amount specified in*
12 *paragraph (1) if (A) the student did not receive adequate*
13 *instruction to obtain the training, skills, or experience, or*
14 *employment to which the instruction was represented to lead, (B)*
15 *credit for the instruction obtained by the student is not generally*
16 *transferable to other institutions approved by the board, or (C)*
17 *the institution or one of its representatives fraudulently*
18 *misrepresented to students the likely starting salary or job*
19 *availability, or both, after training.*

20 *(4) The amount of the payment determined under this subdivision*
21 *is not dependent on the amount of the refund to which the student*
22 *would have been entitled after a voluntary withdrawal.*

23 *(5) Upon payment of the claim, all of the student's rights against*
24 *the institution shall be deemed assigned to the board to the extent*
25 *of the amount of the payment.*

26 *(g) (1) The board shall negotiate with a lender, holder,*
27 *guarantee agency, or the United States Department of Education*
28 *for the full compromise or write-off of student loan obligations to*
29 *relieve students of loss and thereby reduce the amount of student*
30 *claims.*

31 *(2) The board, with the student's permission, may pay a*
32 *student's claim directly to the lender, holder, guarantee agency,*
33 *or the United States Department of Education under a federally*
34 *guaranteed student loan program only if the payment of the claim*
35 *fully satisfies all of the student's loan obligations related to*
36 *attendance at the institution for which the claim was filed.*

37 *(3) Notwithstanding subdivision (e), the board may delay the*
38 *payment of a claim pending the resolution of the board's attempt*
39 *to obtain a compromise or write-off of the claimant's student loan*
40 *obligation. However, the board shall immediately pay the claim*

1 *if any adverse action that is not stayed is taken against the*
2 *claimant, including the commencement of a civil or administrative*
3 *action, tax offset, the enforcement of a judgment, or the denial of*
4 *any government benefit.*

5 *(4) The board shall make every reasonable effort to obtain a*
6 *loan discharge for an eligible student in lieu of reimbursing that*
7 *student in whole or in part from the fund pursuant to federal*
8 *student loan laws and regulations.*

9 *(5) Whenever the board receives from a student a completed*
10 *application for payment from the Student Tuition Recovery Fund,*
11 *the board shall, as soon as is practicable, cause to be delivered*
12 *to that student a written notice specifying, in plain English, the*
13 *rights of a student under this section.*

14 *(h) (1) If the board denies the claim, or reduces the amount of*
15 *the claim pursuant to paragraph (2) of subdivision (f), the board*
16 *shall notify the student of the denial or reduction and of the*
17 *student's right to request a hearing within 60 days or any longer*
18 *period permitted by the board. If a hearing is not requested within*
19 *60 days or any additional period reasonably requested by the*
20 *student, the board's decision shall be final. If a hearing is*
21 *requested, Chapter 5 (commencing with Section 11500) of Part 1*
22 *of Division 3 of Title 2 of the Government Code shall apply.*

23 *(2) It is the intent of the Legislature that, when a student is*
24 *enrolled in an institution that closes before the completion of the*
25 *student's program, the student shall have the option for a teach-out*
26 *at another institution approved by the board. The board shall seek*
27 *to promote teach-out opportunities wherever possible and shall*
28 *inform the student of his or her rights, including payment from the*
29 *fund, transfer opportunities, and available teach-out opportunities,*
30 *if any.*

31 *(i) This section applies to all claims filed or pending under*
32 *former Chapter 7 (commencing with Section 94700) after January*
33 *1, 1990.*

34 *(j) Once the board determines that a student claim is eligible*
35 *for payment under this section and that the use of the Student*
36 *Tuition Recovery Fund, in whole or in part, is appropriate to satisfy*
37 *the eligible claim, the board shall document its negotiations with*
38 *the relevant lender, holder or guarantee agency, the United States*
39 *Department of Education, or the applicable state agency. The*
40 *board shall prepare a written summary of the parties and results*

1 of the negotiations, including the amounts offered and accepted,
2 the discounts requested and granted, and any other information
3 that is available to any party that files a request for this information
4 with the board.

5 95101. (a) An institution closing, not seeking renewal to
6 operate, or whose approval to operate is discontinued, before the
7 completion of educational services by all enrolled students, shall
8 have a plan approved by the board that includes specific provisions
9 for the treatment of currently enrolled students in the event of
10 school closure. Closing schools shall communicate to all enrolled
11 students that these provisions exist and are available to them.
12 Closing schools shall provide opportunities for students to complete
13 their educational programs at another institution, or shall provide
14 a full refund and fee refund to students in the event that the board
15 determines that the school has not fulfilled its contractual
16 obligation to them.

17 (b) The plan required by subdivision (a) shall contain detailed
18 procedures that will be used in the event of closure, including all
19 of the following:

20 (1) Arrangements made for students to receive continued
21 instruction.

22 (2) Procedures for making tuition and fee refunds, including
23 the source of these funds, including, but not limited to bonds, letters
24 of credit, or other sources.

25 (3) Written descriptions that will be used to inform enrolled
26 students of these plans.

27 (c) The board-approved plan shall further provide for the
28 retention and disposition of records in the event of closure.
29 Arrangements shall be made for the transference of complete
30 academic and financial aid records to other institutions or agencies
31 in the event of closure, and currently enrolled and former students,
32 including graduates, shall be informed of the location of those
33 records and how they can gain access to them. The institution or
34 agency holding the records shall be directed to inform the board
35 if the records are later moved.

36 95102. (a) (1) The board shall assess each institution, other
37 than an institution that receives all of its students' total charges
38 from third-party payers, for the purpose of compliance with the
39 provisions of this chapter that are related to the Student Tuition
40 Recovery Fund. A third-party payer, for the purposes of this

1 *section, means an employer, government program, or other payer*
2 *that pays a student's total charges directly to the institution when*
3 *no separate agreement for the repayment of that payment exists*
4 *between the third-party payer and the student. A student who*
5 *receives third-party payer benefits for his or her tuition and fees*
6 *is not eligible for benefits from the Student Tuition Recovery Fund.*

7 (2) (A) *The amount assessed each institution shall be calculated*
8 *only for those students who are California residents and who are*
9 *eligible to be reimbursed from the fund. It shall be based on the*
10 *actual amount charged each of these students for total tuition cost,*
11 *regardless of the portion that is prepaid, and shall be assessed as*
12 *tuition is paid or loans are funded on behalf of the student, based*
13 *upon academic term. The amount of the assessment on an*
14 *institution shall be determined in accordance with paragraphs (3)*
15 *and (4).*

16 (B) *Each institution shall collect the amount assessed by the*
17 *board in the form of a Student Tuition Recovery Fund fee from its*
18 *new students, and remit these fees to the board during the quarter*
19 *immediately following the quarter in which the fees were collected*
20 *from the students, or from loans funded on behalf of the students,*
21 *except that an institution may waive collection of the Student*
22 *Tuition Recovery Fund fee and assume the fee as a debt of the*
23 *institution. The student's subsequent disenrollment at the institution*
24 *shall not relieve the institution of the obligation to pay the fee to*
25 *the board, nor be the basis for refund of the fee to the student. An*
26 *institution shall not charge a fee of any kind for the collection of*
27 *the Student Tuition Recovery Fund fee. An institution may refuse*
28 *to enroll a student who has not paid, or made provisions to pay,*
29 *the appropriate Student Tuition Recovery Fund fee.*

30 (3) *The amount collected from a new student by an institution*
31 *shall be calculated on the basis of the course tuition paid over the*
32 *current calendar year, based upon the assessment rate in effect*
33 *when the student enrolled at the institution, without regard to the*
34 *length of time the student's program of instruction lasts. For*
35 *purposes of annualized payment, a new student enrolled in a course*
36 *of instruction that is longer than one calendar year in duration*
37 *shall pay fees for the Student Tuition Recovery Fund based on the*
38 *amount of tuition collected during the current calendar year.*

39 (4) *Student Tuition Recovery Fund fees shall be collected from*
40 *new students at the rate of two dollars and fifty cents (\$2.50) per*

1 thousand dollars of tuition charged, rounded to the nearest
2 thousand dollars.

3 (5) The board may levy additional reasonable special
4 assessments on an institution under this section only if these
5 assessments are required to ensure that sufficient funds are
6 available to satisfy the anticipated costs of paying student claims
7 pursuant to this article.

8 (6) (A) The board shall not levy a special assessment unless
9 the balance in the Student Tuition Recovery Fund falls below ____
10 dollars (\$____), as certified by the board.

11 (B) A special assessment is a surcharge, collected by each
12 institution from newly enrolled students, of up to 100 percent of
13 that institution's regular assessment for four consecutive quarters.
14 The affected student shall pay the surcharge simultaneously with
15 his or her regular quarterly payment to the Student Tuition
16 Recovery Fund.

17 (C) The board shall provide at least 90 days' notice of an
18 impending special assessment to each affected institution. This
19 notice shall also be posted on the board's Internet Web site.

20 (D) The board may apply any special assessment payments that
21 it receives from an institution as a credit toward that institution's
22 current or future obligations to the Student Tuition Recovery Fund.

23 (7) The assessments shall be paid into the Student Tuition
24 Recovery Fund and the deposits shall be allocated, except as
25 otherwise provided for in this chapter, solely for the payment of
26 valid claims to students. Unless additional reasonable assessments
27 are required, no assessments shall be levied during any fiscal year
28 if, as of June 30 of the prior fiscal year, the balance in that account
29 of the fund exceeds ____ dollars (\$____). However, irrespective
30 of the balance in the fund, assessments shall be made on any
31 initially approved institution. Notwithstanding Section 13340 of
32 the Government Code, the moneys so deposited in the fund are
33 continuously appropriated to the board for the purpose of paying
34 claims to students pursuant to Section ____.

35 (b) The board may deduct from the fund the reasonable costs
36 of administration of the tuition recovery program authorized by
37 this article. The maximum amount of administrative costs that may
38 be deducted from the fund, in a fiscal year, shall not exceed one
39 hundred thousand dollars (\$100,000) from the degree-granting
40 postsecondary educational institution account plus the interest

1 earned on money in the fund that is credited to the fund. Prior to
2 the board's expenditure of any amount in excess of one hundred
3 thousand dollars (\$100,000) from the fund for administration of
4 the tuition recovery program, the board shall develop a plan
5 itemizing that expenditure. The plan shall be subject to the
6 approval of the Department of Finance.

7 (c) Reasonable costs in addition to those permitted under
8 subdivision (b) may be deducted from the fund for either of the
9 following purposes:

10 (1) To make and maintain copies of student records from
11 institutions that close.

12 (2) To reimburse the board or a third party serving as the
13 custodian of records.

14 (d) In the event of a closure by any approved institution under
15 this chapter, any assessments that have been made against those
16 institutions, but have not been paid into the fund, shall be
17 recovered. Any payments from the fund made to students on behalf
18 of any institution shall be recovered from that institution.

19 (e) In addition to civil remedies, the board may order an
20 institution to pay previously unpaid assessments or to reimburse
21 the board for any payments made from the fund in connection with
22 the institution. Before any order is made pursuant to this section,
23 the board shall provide written notice to the institution and notice
24 of the institution's right to request a hearing within 30 days of the
25 service of the notice. If a hearing is not requested within 30 days
26 of the service of the notice, the board may order payment. If a
27 hearing is requested, Chapter 5 (commencing with Section 11500)
28 of Part 1 of Division 3 of Title 2 of the Government Code shall
29 apply, and the board shall have all powers prescribed in that
30 chapter. Within 30 days after the effective date of the issuance of
31 the order, the board may enforce the order in the same manner as
32 if it were a money judgment pursuant to Title 9 (commencing with
33 Section 680.010) of Part 2 of the Code of Civil Procedure.

34 (f) In addition to any other action that the board may take under
35 this chapter, the board may suspend or revoke an institution's
36 approval to operate or registration because of the institution's
37 failure to pay assessments when due or failure to pay
38 reimbursement for any payments made from the fund within 30
39 days of the board's demand for payment.

1 (g) *The moneys deposited in the fund shall be exempt from*
2 *execution, and shall not be the subject of litigation or liability on*
3 *the part of creditors of those institutions or students.*

4 95103. *Students enrolling in institutions that are subject to*
5 *Sections 95101 and 95102 shall disclose in writing, if applicable,*
6 *the source of any and all guaranteed or insured loans granted for*
7 *the purposes of paying tuition to that institution. In the event of a*
8 *closure of any institution, the board shall provide any lending*
9 *institution that is the source of any guaranteed or insured student*
10 *loan with the names of students maintaining loans with that lending*
11 *institution.*

12 95104. (a) (1) *The governing board or other governing*
13 *authority of any private postsecondary or vocational educational*
14 *institution shall adopt rules providing for the withholding of*
15 *services from students or former students who have been notified,*
16 *in writing, at the student's or former student's last known address,*
17 *that he or she is in default on a loan or loans under either of the*
18 *following loan programs:*

19 (A) *The Stafford Student Loan program.*

20 (B) *The Supplemental Loans for Students program.*

21 (C) *Any program directly or indirectly financed by the*
22 *California Educational Facilities Authority.*

23 (2) *“Default,” as used in this section, with respect to a loan*
24 *under the Stafford Student Loan program or Supplemental Loans*
25 *for Students program means the failure of a borrower to make an*
26 *installment payment when due, or to meet other terms of the*
27 *promissory note under circumstances where the guarantee agency*
28 *finds it reasonable to conclude that the borrower no longer intends*
29 *to honor the obligation to repay, provided that this failure persists*
30 *for 180 days for a loan repayable in monthly installments, or 240*
31 *days for a loan repayable in less frequent installments. “Default,”*
32 *as used in this section, with respect to a program directly or*
33 *indirectly financed by the California Educational Facilities*
34 *Authority, means the failure of a borrower to make an installment*
35 *payment when due, or to meet other terms of the loan, within that*
36 *period and under the circumstances determined by the California*
37 *Educational Facilities Authority with respect to that program.*

38 (b) *The rules adopted pursuant to subdivision (a) shall that the*
39 *services withheld may be provided during a period when the facts*
40 *are in dispute and when the student or former student demonstrates*

1 to either the governing board or other appropriate governing
2 authority of the institution, or the Student Aid Commission and
3 the appropriate entity or its designee, that reasonable progress
4 has been made to repay the loan or that there exists a reasonable
5 justification for the delay as determined by the institution. The
6 rules shall specify the services to be withheld from the student and
7 may include, but are not limited to, the provision of any of the
8 following:

9 (1) Grades.

10 (2) Transcripts.

11 (3) Diplomas.

12 (c) The rules shall not include the withholding of registration
13 privileges.

14 (d) When it has been determined that an individual is in default
15 on a loan or loans under either of the loan programs specified in
16 subdivision (a), the Student Aid Commission shall give notice of
17 the default to all institutions through which that individual acquired
18 the loan or loans.

19 (e) Guarantors, or those who act as their agents or act under
20 their control, who provide information to institutions pursuant to
21 this section, shall defend, indemnify, and hold harmless the
22 governing board or other governing authority of the institutions
23 from action resulting from compliance with this section when the
24 action arises as a result of incorrect, misleading, or untimely
25 information provided to the institution by the guarantors, their
26 agents, or those acting under the control of the guarantors.

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

36 SEC. 4. This act shall not become operative unless and until
37 A.B. 1525 of the 2007-08 Regular Session of the Legislature is
38 chaptered and becomes operative.

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate, February 23, 2007 (JR11)**

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This Bill:

- 1) Requires a successor board to be created in the DCA in the event that any board that is part of the DCA becomes inoperative or is repealed. (BPC § 101.1)
- 2) Provides the successor board with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed or made inoperative of the board that it is succeeding. (BPC § 101.1)
- 3) Requires the successor board to have the same number of members and composition as the board that it is succeeding. (BPC § 101.1)
- 4) Requires the board members for the successor board to be appointed by the same appointing authorities, for the same term, and with the same membership requirements as the members of that board. (BPC § 101.1)
- 5) Provides the successor board with the same authority to appoint an executive officer as was possessed by the board that it is succeeding. (BPC § 101.1)

Comment:

- 1) **Author's Intent.** This bill is sponsored by the Author and the Senate Pro Tempore, Senator Perata to provide for a different, more effective method of continuing state licensing and regulation when the Legislature sunsets a licensing board. This has happened infrequently in the past, typically because a board has failed to perform its administrative responsibilities in a proper and effective manner. This bill is intended to perform the ongoing continuation of the licensing and regulation of a profession via a more independent board structure, than by a bureau operated by the Department.
- 2) **Sunset Review.** In 1994, the legislature enacted the "sunset review" process, which permits periodic review of the need for licensing and regulation of a profession and the effectiveness of the administration of the law by the licensing board. The sunset review process is in part built on an assumption in law that if a board is operating poorly, and lesser measures have been ineffective in rectifying the problems, the board should be allowed to sunset and the administration of the licensing act would be more effective if the board becomes a bureau under the DCA.

Under a bureau, a bureau chief is in charge and reports to the director of the Department. In bureaus, many decisions are made through a closed-door administrative management structure. Under a board structure, board members are appointed and hold hearings in public. The board members appoint an executive officer who manages the operations of the board and reports to the board in public. This process is more accountable and transparent and offers the public more opportunity to participate.

This bill would essentially allow the creation of a new board when a board is "sunsetted" by allowing appointing authorities to appoint new members and to reappoint effective members. The new board may then replace the executive officer if the executive officer has been ineffective in managing the operations.

- 3) **Support and Opposition.**
None yet received.

4) **History**

2007

May 7

Placed on APPR. suspense file.

Apr. 25

Set for hearing May 7.

Apr. 24

From committee: Do pass, but first be re-referred to Com. on APPR.
(Ayes 6. Noes 2. Page 706.) Re-referred to Com. on APPR.

Apr. 16

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

Mar. 29

Set for hearing April 23.

Mar. 15

To Com. on B., P. & E.D.

Feb. 26

Read first time.

Feb. 25

From print. May be acted upon on or after March 27.

Feb. 23

Introduced. To Com. on RLS. for assignment. To print.

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AMENDED IN SENATE APRIL 16, 2007

SENATE BILL

No. 963

Introduced by Senator Ridley-Thomas

February 23, 2007

An act to amend Sections 4001 and 4003 of, and to repeal *and add* Section 101.1 of, the Business and Professions Code, relating to regulatory boards.

LEGISLATIVE COUNSEL'S DIGEST

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

Existing law creates the Department of Consumer Affairs within the State and Consumer Services Agency. Under existing law, the department consists of boards that license and regulate members of various professions and vocations. Existing law provides for the boards to become inoperative on a specified date unless that date is extended or deleted by the Legislature. Under existing law, when a board becomes inoperative, the department succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the board and its executive officer that are not otherwise repealed or made inoperative.

~~This bill would delete that provision that requires the department to succeed to the duties, powers, purposes, responsibilities, and jurisdiction of an inoperative board~~ *instead, when a board becomes inoperative, create a successor board in the Department of Consumer Affairs that succeeds to and is vested with all of the duties, powers, purposes, responsibilities, and jurisdiction of the board that are not otherwise repealed or made inoperative. The bill would provide for the successor board to have the same number of members and composition as the prior board, would provide that its members be appointed by the same appointing authorities, for the same term, and with the same*

requirements as the prior board members, and would give the successor board the same authority to appoint an executive officer as the prior board had.

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

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

1 SECTION 1. Section 101.1 of the Business and Professions
2 Code is repealed.

3 SEC. 2. Section 101.1 is added to the Business and Professions
4 Code, to read:

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

18 ~~SEC. 2.~~

19 SEC. 3. Section 4001 of the Business and Professions Code is
20 amended to read:

21 4001. (a) There is in the Department of Consumer Affairs a
22 California State Board of Pharmacy in which the administration
23 and enforcement of this chapter is vested. The board consists of
24 13 members.

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

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

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

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

24 (f) In accordance with Section 473.1, this section shall become
25 inoperative on July 1, 2010, and, as of January 1, 2011, is repealed,
26 unless a later enacted statute, that becomes effective on or before
27 January 1, 2011, deletes or extends the dates on which it becomes
28 inoperative and is repealed. The repeal of this section renders the
29 board subject to the review required by Division 1.2 (commencing
30 with Section 473).

31 ~~SEC. 3.~~

32 *SEC. 4.* Section 4003 of the Business and Professions Code is
33 amended to read:

34 4003. (a) The board may appoint a person exempt from civil
35 service who shall be designated as an executive officer and who
36 shall exercise the powers and perform the duties delegated by the
37 board and vested in him or her by this chapter. The executive
38 officer may or may not be a member of the board as the board may
39 determine.

- 1 (b) The executive officer shall receive the compensation as
2 established by the board with the approval of the Director of
3 Finance. The executive officer shall also be entitled to travel and
4 other expenses necessary in the performance of his or her duties.
- 5 (c) The executive officer shall maintain and update in a timely
6 fashion records containing the names, titles, qualifications, and
7 places of business of all persons subject to this chapter.
- 8 (d) The executive officer shall give receipts for all money
9 received by him or her and pay it to the Department of Consumer
10 Affairs, taking its receipt therefor. Besides the duties required by
11 this chapter, the executive officer shall perform other duties
12 pertaining to the office as may be required of him or her by the
13 board.
- 14 (e) In accordance with Section 473.1, this section shall become
15 inoperative on July 1, 2010, and, as of January 1, 2011, is repealed,
16 unless a later enacted statute, that becomes effective on or before
17 January 1, 2011, deletes or extends the dates on which it becomes
18 inoperative and is repealed.

1625 North Market Blvd., Suite S-200
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To: Board Members

Date: May 11, 2007

From: Christy Berger
Legislation Analyst

Telephone: (916) 574-7847

Subject: Regulation Update

Title 16, CCR Section 1803, Delegation of Authority to the Executive Officer

This proposal allows the Board's executive officer to sign orders to compel a physical or mental evaluation of a Board licensee or registrant as part of an investigation of a complaint. A regulatory hearing was held on October 4, 2006. The Board gave final approval to this regulation at its meeting on November 16, 2006. On March 20, 2007, the completed regulatory packet was given final approval by the Office of Administrative Law (OAL) and was filed with the Secretary of State's office. This regulatory change took effect on April 19, 2007.

Title 16, CCR Sections 1833.1 and 1870, Supervisor Qualifications

Supervisors of registrants are currently required to have practiced psychotherapy for two out of the five years preceding any supervision. This proposal would allow supervisors to count time spent directly supervising persons who perform psychotherapy toward this requirement and delete the requirement that supervisors of MFT Interns and Trainees average 5 hours of client contact per week for two out of the five years prior to supervising. At its April 19, 2006 meeting, the Board's Policy and Advocacy Committee voted to recommend this language to the Board. The Board reviewed the proposal at its May 18, 2006 meeting and sent it back to the Committee for further work. At its June 28, 2006 meeting, the Committee recommended to the Board that the original language of the proposal be retained and additionally recommended to delete the requirement that supervisors of MFT Interns average 5 hours of client contact per week for two out of the five years prior to supervising. The Board approved this proposal at its meeting on July 27, 2006 and the notice was published by OAL on September 29, 2006. The regulatory hearing was held on November 16, 2006; no public comments were received. Staff distributed a 15-day notice on December 22, 2006 in order to incorporate minor modifications into the language. The final language was given final approval by the Board at its February 15, 2007 meeting. The completed regulatory packet was submitted to the Legal Office in April for final departmental approval.

Title 16, CCR, Technical Cleanup - Licensed Educational Psychologists and Board Administration

This proposal would make technical and editorial changes to the Board's regulations in line with statutory changes proposed under SB 1475 to update the Licensed Educational Psychologist and Board administration statutes. At its June 28, 2006 meeting, the Board's

Policy and Advocacy Committee recommended that the Board adopt these proposed regulations. The Board approved this proposal at its meeting on July 27, 2006. The notice was published by OAL on September 29, 2006. The regulatory hearing was held on November 16, 2006. Staff distributed a 15-day notice on December 22, 2006 in order to incorporate minor modifications into the language. The final language was given final approval by the Board at its February 15, 2007 meeting. The completed regulatory packet was submitted to the Legal Office in April for final departmental approval.

Title 16, CCR Sections 1805, 1806, and 1833.3, Abandonment of Application Files.

Section 1806 currently requires candidates to take an examination within one year of notification of eligibility to take the examination. Section 1833.3 currently requires applicants who fail an examination to retake that examination within one year from the date of the failure. However, candidates who fail are provided with a notice of eligibility 180 days from the date of failure, so both sections apply and reflect two different time frames. This regulatory proposal would resolve the conflict between these two regulations, providing all candidates with a one-year period in which to take an examination to avoid abandonment of their application. At its June 28, 2006 meeting, the Board's Policy and Advocacy Committee recommended that the Board adopt these proposed regulations. The Board approved this proposal at its meeting on July 27, 2006. The notice was published by OAL on September 29, 2006. The regulatory hearing was held on November 16, 2006. Staff distributed a 15-day notice on December 22, 2006 in order to incorporate minor modifications into the language. The final language was given final approval by the Board at its February 15, 2007 meeting. The completed regulatory packet was submitted to the Legal Office in April for final departmental approval.

Title 16, CCR, Sections 1816.7, 1887.7, 1887.75, and 1887.77, Delinquency Fees for Continuing Education Providers

This proposal would allow a registered provider of continuing education (PCE) a period of one year from the registration's expiration date in order to renew an expired PCE registration with a \$100 delinquency fee. Currently, when a PCE does not renew the registration prior to its expiration date, the registration is cancelled and a new registration must be obtained. At its June 21, 2006 meeting, the Board's Budget and Efficiency Committee recommended that the Board adopt these proposed regulations. The Board approved this proposal at its meeting on July 27, 2006. The notice was published by OAL on September 29, 2006. The regulatory hearing was held on November 16, 2006. Staff distributed a 15-day notice on December 22, 2006 in order to incorporate minor modifications into the language. The final language was given final approval by the Board at its February 15, 2007 meeting. The completed regulatory packet was submitted to the Legal Office in April for final departmental approval.

Title 16, CCR, Fees

This proposal would make technical changes to the Board's regulations regarding fees. These changes would conform the Board's regulations to the non-substantive statutory changes the Budget and Efficiency Committee is recommending to the Board regarding fees, renewals, and inactive licenses. At its June 28, 2006 meeting, the Board's Policy and Advocacy Committee recommended that the Board adopt these proposed regulations. The Board approved this proposal at its meeting on July 27, 2006. The notice was published by OAL on September 29, 2006. The regulatory hearing was held on November 16, 2006. Staff distributed a 15-day notice on December 22, 2006 in order to incorporate minor modifications into the language. The final language was given final approval by the Board at its February 15, 2007 meeting. The completed regulatory packet was submitted to the Legal Office in April for final departmental approval.

Title 16, CCR, Sections 1887.2(a) and 1887.3(a) Continuing Education

Licenses are currently permitted to take an unlimited amount of continuing education (CE) by conventional or online means. However, hours earned through "self-study" courses are

limited to one-third of the total required CE hours. The original intent of this proposal was to delete the definition of a “self-study course” and delete the limitations regarding self-study hours. The Consumer Protection Committee approved this proposal at its September 20, 2006 meeting. The proposal went before the Board for preliminary approval at its November 16, 2006 meeting; however, the Board recommended modifications to the proposed language – to retain the definition of a “self-study course” and to increase the self-study course limitations to one-half of the total required CE hours. The notice was published by OAL on December 29, 2006, which initiated the 45-day public comment period. A regulatory hearing was held at the Board’s February 15, 2007 meeting. The proposal will go before the Board for final approval at its meeting on May 31, 2007.

Title 16, CCR Section 1887.2, Exceptions to Continuing Education Requirements

This regulation sets forth CE exception criteria for MFT and LCSW license renewals. This proposal would amend the language in order to clarify and/or better facilitate the request for exception from the CE requirement process. On January 10, 2007, the Consumer Protection Committee reviewed and approved the proposal. On February 15, 2007, the proposal went before the Board for preliminary approval. However, a modification to the language, which addresses minimum timeframes for circumstances that exempt licensees from the CE requirement, was recommended by the Board. Staff presented this recommended modification to the Committee on April 11, 2007; however, the Committee recommended that staff re-present the original proposal back to the Board in May 2007 as it provides consistency between the exception provisions within the regulation.

Title 16, CCR, Section 1886, Citation and Fine of Continuing Education Providers

This proposal would provide the Board with the authority to issue a citation and fine to a continuing education provider. This proposal is currently on hold due to staff workload considerations.

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To: Board Members

Date: May 11, 2007

From: Christy Berger
Legislation Analyst

Telephone: (916) 574-7847

Subject: Legislation Update

Board-Sponsored Legislation

The following are Board-sponsored proposals for 2007. The language has not yet been introduced, so a bill number is not yet available.

AB 1525 (Cook) Bureau for Private, Postsecondary and Vocational Education (BPPVE)

This proposal would allow the Board to accept degrees granted by a school approved by the BPPVE prior to July 1, 2007 for the duration of the approval or renewal granted to that school. This bill would also extend the BPPVE's sunset date from July 1, 2007 to January 1, 2008. This legislation would not take effect unless SB 823 also passes on or before July 1, 2007.

Omnibus Legislation (Bill not yet introduced):

Unprofessional Conduct

The Board proposes to add the following to its unprofessional conduct statutes:

- A willful violation of the Health and Safety Code pertaining to release of records.
- A violation of the telemedicine statute.
- List all types of unprofessional conduct in one section.

Eliminate Extensions for Associate Clinical Social Worker Registrations

This proposal would require an Associate Clinical Social Worker (ASW) to obtain new registration if needed, rather than one-year extensions, once his or her registration is no longer renewable.

Out-of-State MFT Education

This proposal would clarify that persons seeking license as a Marriage and Family Therapist (MFT), who live in California yet attend a school located outside of California must meet California's education standards.

Reduce License Delinquency Period to Three Years

This proposal would decrease the amount of time a license can remain delinquent from five years to three years.

Fictitious Business Names

This proposal addresses the use of fictitious business names for Licensed Clinical Social Workers (LCSWs) in private practice, in parallel with current MFT statute.

Fee Statutes

This proposal would make a number of technical changes related to fee and renewal statutes for consistency and clarity.

Continuing Education

This proposal would award licensees with 6 hours of continuing education credit per renewal cycle for attending one full day Board meeting.

Exempt Practice Settings

This proposal would align exempt settings specified in LCSW statute with those specified in MFT statute.

Portability of MFT Licensure

This proposal would modify California's licensing requirements for MFTs licensed at an equivalent level in another state by making reasonable allowances for equivalent coursework, and for supervised experience gained more than six years ago.

Qualifications for MFT Intern Registration

This proposal would eliminate an outdated provision which permits applicants for MFT Intern registration to qualify under an alternative method.

The Board is currently monitoring the following legislation:

AB 249 (Eng) *Regulatory Gag Clauses*

This proposal would prohibit Board licensees and registrants, as well as other healing arts licensees from including any of the following provisions in a civil settlement:

- Prohibiting the other party from contacting, cooperating or filing a complaint with the Board
- Requiring the other party to withdraw a complaint from the Board

The Board's Policy and Advocacy Committee has recommended a position of "support" to the full Board, who will consider this legislation at its May 2007 meeting.

AB 423 (Beall) *Mental Health Parity*

This proposal would require health care service plan contracts and health insurance policies to provide coverage for the diagnosis and treatment of a mental illness to persons of all ages under the same terms and conditions applied to other medical conditions. Defines "mental illness" as mental disorders defined in the DSM-IV or subsequent editions, and includes substance abuse. The Board's Policy and Advocacy Committee has recommended a position of "support" to the full Board, who will consider this legislation at its May 2007 meeting.

AB 509 (Hayashi) *Suicide Prevention*

This proposal would establish the Office of Suicide Prevention (OSP) under the Department of Mental Health (DMH). The OSP would be required to coordinate and implement a statewide suicide prevention strategy modeled after the National Strategy for Suicide Prevention, among other tasks. The Board's Policy and Advocacy Committee has recommended a position of "support" to the full Board, who will consider this legislation at its May 2007 meeting.

AB 1367 (DeSaulnier) *Alcohol and Drug Abuse Counselors*

This proposal would establish title protection and licensure for Alcohol and Drug Abuse Counselors, with the program to be administered by the Board of Behavioral Sciences. This is now a two-year bill.

AB 1486 (Calderon) *Licensed Professional Counselors*

This proposal would establish title protection and licensure for Licensed Professional Counselors, with the program to be administered by the Board of Behavioral Sciences. This legislation will be considered by the Board at its May 2007 meeting.

SB 851 (Steinberg and Romero) *Mentally Ill Offenders*

This proposal would establish mental health courts statewide, and would require each county to establish a method for screening every defendant for mental illness. If the defendant is eligible and consents, he or she would be placed on probation and required to participate in the

program for a minimum of one year. This proposal would also expand mental health and treatment programs for prisoners and probationers with severe mental illness. It would provide a structure and philosophy consistent with the Mental Health Services Act (MHSA) but does not use any MHSA funding. The Board's Policy and Advocacy Committee has recommended a position of "support" to the full Board, who will consider this legislation at its May 2007 meeting.

SB 823 (Perata) *Bureau for Private, Postsecondary and Vocational Education (BPPVE)*

This bill would recast, revise, and reenact the provisions of the Private Postsecondary and Vocational Education Reform Act of 1989 as the California Private Postsecondary Education Act of 2007. The bill would establish the Board for Private Postsecondary Education in the Department of Consumer Affairs, and would require the board to succeed to the duties assigned to the bureau under the 1989 act. This legislation would not take effect unless AB 1525 also passes.

SB 993 (Calderon) *Psychologists: Scope of Practice*

This proposal would establish the requirements to become a "Medical Psychologist" and would permit a Medical Psychologist to administer and prescribe psychotropic medication. The Board's Policy and Advocacy Committee recommended no position to the full Board. However, this has become a two-year bill.

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To: Board Members

Date: May 11, 2007

From: Paul Riches
Executive Officer

Telephone: (916) 574-7840

Subject: Strategic Plan Update

Background

The board formally adopted the strategic plan at its November 2005 meeting. As part of the implementation of the strategic plan, each committee receives a progress update on the strategic objectives under its jurisdiction.

This regular exchange of information provided will provide mutual accountability between staff and board members in accomplishing our shared objectives.

Update on Objectives

Goal 2: Build an excellent organization through effective leadership and professional staff.

Objective 2.1 -- Meet 80% of training goals identified in IDPs by June 30, 2006.

Methodology

Staff reviewed Individual Development Plans completed in the 2005/2006 fiscal year and found that the plans indicated 23 separate training courses be completed.

Target

Staff would need to complete 18 courses to satisfy the objective.

Current Performance

The backlog of Individual Development Plans (IDPs) has been eliminated, and the board is now current. Of those IDPs given in the current fiscal year, 8 staff members identified 23 classes they desired to attend. To date 21 classes have been completed. This is an 88% completion rate.

This objective has been satisfied for the current quarter. Staff will return with recommendations regarding either the revision or elimination of this objective at a future committee meeting.

Objective 2.2 -- Reduce average application processing time by 33% by December 30, 2006.

Applicants place a priority on the timely resolution of their application, and this objective was established to improve the board's responsiveness to its applicants.

Methodology

Application processing time is defined as follows:

Number of days from receipt of application - Number of days elapsed awaiting resolution of deficiencies

Results for Baseline Period

Baseline processing time was established in the period from April – June 2005 as 23.4 days.

For the 2006 calendar year the average processing time across all programs was 11.2 days (35.3 days with Deficiencies).

For the first quarter of 2007 the average processing time across all programs was 14.4 days (36.4 days with Deficiencies).

Target Processing Times

An average processing time of 15.7 days would satisfy this strategic objective. The processing time for the October – November 2006 quarter was 14.4 days still satisfies the objective, but is a 62% increase in processing time over the prior quarter.

The overall average processing time for 2006 well exceeds the objective (a 52% reduction).

Future Focus

While the most recent quarter's performance still satisfies the objective, it does represent a significant setback from prior performance levels. The board is again fully staffed with cashiers and license evaluators for the first time since the summer of 2006. The cashiering unit has cleared the accumulated backlog and we expect improved performance in the current quarter.

Objective 2.3 -- Increase staff training hours by 15% by June 30, 2010.

Methodology

Staff reviewed training records for the prior two fiscal years to establish an average number of training hours to utilize as a baseline.

In the fiscal year 2003/2004, staff completed 150 hours of formal training.
In the fiscal year 2004/2005, staff completed 813 hours of formal training.
This data yields an average of 481 hours of staff training over the two-year period. Given the significant divergence between those two numbers, staff will use the 2004/2005 fiscal year as the baseline for this objective.

Target

Staff would need to complete 934 hours per year to satisfy the objective.

Current Performance

In the fiscal year 2004/2005, 813 hours were devoted to staff training. In 2005/06 961.5 hours staff training was completed (an 18% increase over the previous year).

In the 2006/07 fiscal year, staff has completed 880 hours of training through April 30, 2007.

Objective 2.4 -- Joint participation by executive staff and board members in 20 external events (non-board meeting) by June 30, 2010.

This objective was included to develop closer working relationships between board members and board staff outside the context of formal board and committee meetings. The following list includes both past and currently scheduled events.

1. *October 2005* MSW educators meeting at USC [Peter Manoleas, Paul Riches]
2. *January 2006* MSW student meeting at UC Berkeley [Peter Manoleas, Paul Riches, Janene Mayberry]
3. *March 2006* National Association of School Psychologists meeting in Anaheim [Judy Johnson, Paul Riches]
4. *April 2006* MFT Student outreach meeting at Pepperdine University [Karen Pines, Sean O'Connor]
5. *May 2006* CAMFT annual meeting in Palm Springs [Joan Walmsley, Mona Maggio, Paul Riches]
6. *June 2006* MFT students and educators meeting at Phillips Graduate Institute [Ian Russ, Victor Law, Paul Riches, Kari Frank, Mona Maggio]
7. *July 2006* Orange County Community Counseling Consortium meeting at Pepperdine University, Orange County [Paul Riches, Joan Walmsley]
8. *October 2006* [Ian Russ, Paul Riches, Mona Maggio, Rosanna Webb-Flores, Pearl Yu, Mary Hanifen, Julie McAuliffe] Workgroup on Custody Evaluators with the Administrative Office of the Courts.
9. *November 2006* Presentation at Human Options agency [Sean O'Connor and Joan Walmsley]
10. January 23, 2007 - USC LCSW School Presentation [Sean O'Connor and Victor Law]
11. February 6, 2007 - Azusa Pacific MFT School Presentation [Sean O'Connor and Victor Law]
12. February 13, 2007 - USC Orange County LCSW School Presentation [Sean O'Connor and Joan Walmsley]
13. March 8, 2007 - CASP Annual Conference – [Judy Johnson, Sean O'Connor, Paul Riches, Steve Sodergren]
14. April 23, 2007 - CSU, Long Beach - LCSW School Presentation [Victor Law, Sean O'Connor]
15. April 24th - UCLA LCSW School Presentation [Victor Law, Sean O'Connor]
16. May 4-5, 2007 – NASW California Conference [Joan Walmsley, Sean O'Connor, Paul Riches]
17. May 16-19, 2007 – CAMFT Conference [Ian Russ, Paul Riches, Sean O'Connor, Steve Sodergren]

Goal 4: Advocate for increased access to mental health services.

Objective 4.1 -- Participate in 15 public policy forums throughout the State addressing access to mental health services by June 30, 2010.

The board has been actively participating with the MHSA Education and Training initiative. This initiative is developing the strategic plan for spending MHSA revenues dedicated to building the mental health workforce. This initiative has an advisory group (where the board is represented by Peter Manoleas), which has formed nine workgroups to write elements of the plan. The board is actively participating in the following workgroups:

1. Needs Assessment [Mona Maggio]
 6. Distance Learning [Christy Berger]
 8. Post Secondary Education and Training [Judy Johnson]
 9. Licensing and Certification [Paul Riches]
- On June 12, 2006 Ms. Maggio attended the initiative's Needs Assessment workgroup.
 - On June 28, 2006 Ms. Berger will attend the Distance Learning workgroup.
 - On July 6, 2006, Ms. Johnson will attend the Post-Secondary Education/Training workgroup.
 - On July 12, 2006, Mr. Riches will attend the Licensing and Certification workgroup.
 - On July 19, 2006, Mr. Manoleas attended the Advisory Committee meeting.
 - On August 10, 2006 Ms. Maggio attended the Needs Assessment workgroup meeting.
 - On September 6, 2006 Mr. Riches attended the Licensing and Certification workgroup.
 - On October 18, 2006 Ms. Maggio and Peter Manoleas attended the Advisory Committee Meeting.
 - On March 7, 2007 Mr. Riches attended the Advisory Committee meeting.
 - On May 8, 2007 Mr. Riches participated in the Advisory Committee meeting regarding the creation of MHSA stipend programs for licensed mental health practitioners.

Mr. Riches has been invited to participate with two workgroups established by the California Social Work Education Center (CaSWEC) regarding implementation of the MHSA and Workforce development.

- On September 28, 2006 Mr. Riches made a presentation on board activities to the California Social Work Education Center (CaSWEC) Mental Health Initiative workgroup.
- On September 28, 2006 Mr. Riches attended the CaSWEC Workforce Initiative workgroup and was invited to join the group on an ongoing basis.

Objective 4.2 -- Develop 4 proposals related to behavioral science licensing law that address delivery of services to consumers in light of demographic changes in both the general and licensee populations by December 31, 2007.

A board-sponsored conference on diversity issues in professional licensing will be held on Friday, April 28 in Sacramento. The conference will feature state and national experts in demography and cultural competence in mental health care as well as working sessions designed to provide feedback and suggestions for the board's consideration. A report on the conference was provided at the May 18-19, 2006 board meeting. Staff is working through suggestions from that conference to begin developing proposals for board committees to consider. The Policy and Advocacy Committee reviewed the suggestions and took public input regarding prioritizing board efforts at its September 27, 2006 meeting.

A demographic survey of board licensees and registrants has been completed. Staff is continuing work on data entry. Results from the survey will provide the board with demographic information that will be important in its deliberations on this subject.

Objective 4.3 -- Advocate for 5 laws that expand access to mental health services by June 30, 2010.

No action to report.

Goal 5: Utilize technology to improve and expand services.

Objective 5.1 -- Provide the ability to accept electronic payments by June 30, 2008.

Objective 5.2 -- Process 70% of all renewal applications on-line by June 30, 2009.

Objective 5.3 -- Process 33% of all new applications on-line by June 30, 2010

Objective 5.4 -- Provide the ability to check the status of all applications online by June 30, 2010.

These four goals are linked to the implementation of the iLicensing system being developed by the Department of Consumer Affairs. The Legislature included \$10.7 million in the 2006-07 budget bill (SB 1129) for the Department to implement the system. All of the boards and bureaus within the Department will share the expense of the system. It is expected that the system will provide a platform to meet these goals. The BBS budget was increased by \$50,000 in the 2006-07 fiscal year to reflect its share of the first year expense. Additional expenditures in future budget years are expected as the project is implemented. The budget action included total department-wide budget reductions of \$500,000 per year ongoing beginning in the 2009-10 fiscal year to reflect efficiencies from the system.

This project is underway and is in the early planning stages. Board staff is participating in the development of business requirements for the system. Current schedules anticipate deployment for the board in 2009.

Goal 6: Maximize the efficiency and effectiveness of the Board's resources.

The productivity targets in each of these objectives were established by projecting future workload based on an evaluation of the trends established in the past five years. These productivity increases are required if the new workload is to be absorbed without either an increase in staffing or reduction in service levels.

Objective 6.1 -- Increase licensing staff productivity 13% by June 30, 2010

With the close of the January – March 2006 quarter, we now have one full year of data available as a baseline measure of productivity. It is important to measure licensing productivity on an annual basis because of the substantial seasonality to the workload.

Methodology

Productivity is defined as the total number of completed applications divided by the total time. The licensing unit has 4.5 personnel years allocated to evaluate applications for registration and licensure. There are 246 working days in a personnel year (52 weeks x 5 days – 14 paid state holidays). Based on 8 hour workdays that allows 1107 total working days (8856 hours) for our license evaluators. This figure does not account for vacancies, training time, sick leave, or vacation so the resulting number is expected to understate the actual productivity, but including these confounding variables would make valid year to year comparisons unworkable.

Results for Baseline Period

In the period of April 1, 2005 to March 31, 2006 the license evaluators completed 6377 applications. Based on that performance the license evaluators completed 0.72 applications per work hour.

In the period of April 1 2006 to March 30, 2007 the license evaluators completed 6685 applications completed in 8856 staff hours. This yields a productivity of 0.75 applications per hour a 5% increase in productivity over the baseline period.

Productivity Target

To meet the 13% productivity increase target the license evaluators will have to complete .81 applications per work hour.

Objective 6.2 -- Increase enforcement staff productivity in processing consumer complaints 29% by June 30, 2010.

Methodology

Measuring productivity in enforcement poses a significantly greater challenge than in other board programs. This objective specifically references consumer complaints and therefore actions taken based on internal investigations or criminal conviction information were not considered. Both of these categories do include a significant portion of the enforcement unit workload, but the objective sought to focus on consumer complaints as the most important element of that workload.

First, it was not immediately apparent what the “product” is. After considerable reflection and discussion, we arrived at “resolution” as basic element in enforcement. Actions that resolved (or completed) a consumer complaint were deemed to be products. Consumer complaints are generally “resolved” in one of four categories:

1. Disciplinary Action
2. Citation and Fine
3. Cease/Desist Letter
4. Complaint Closure (No Action).

Second, it is very difficult to assign a numeric value to that “product.” There is little discernible difference in value in the principal products in the licensing and examination units. However, staff believes that there is a significant difference in the value assigned to different enforcement actions. To arrive at values for the four possible resolutions, staff assigned a score of 1-10 (1 = minimum 10 = maximum) based on the perceived impact or significance of the resolution by enforcement staff, complainants and the licensees. These values are highly subjective but are based on the experience of enforcement unit staff with all parties for a long period of time. Below are the values arrived at (maximum score = 30):

- Discipline -- 30
- Citation and Fine – 22
- Cease/Desist – 12
- Closure (No Action) – 9.5

Great care and consideration was given to arriving at these values. Specifically, staff focused on the perceived impact of the resolution, not the amount of resources required to reach it. For instance, while discipline was rated as the maximum impact, reaching a disciplinary outcome has roughly triple the “value” of a closure, but represents far more than triple the resources required to close a complaint. This is methodologically important because measuring productivity requires measuring outputs or products, not the inputs they require. It is also important for policy reasons, because we do not want to

create incentives to take one action or another based on anything except for the objective assessment of whether we can prove a violation by clear and convincing evidence. We believe that the value scale presented accomplishes that balance. Individuals can fairly challenge the staff's subjective assessments, but I believe that it meets the test of not establishing an incentive system. If applied over time, this system will consistently evaluate the enforcement staff's productivity.

Results for Baseline Period

In the 2004-05 Fiscal Year the Enforcement Unit had three analysts handling consumer complaints. Total staff hours for the year (3 positions x 246 working days x 8 hours) were 5904. In that fiscal year consumer complaints had the following resolutions:

Discipline – 11
Citation and Fine – 18
Cease/Desist – 31
Closure (No Action) – 501

Based on the assigned values this yields a score of 5857.5 for the fiscal year.

Productivity for the fiscal year was 1.0 units per hour.

Productivity Target

The objective calls for a 29% increase in productivity in processing consumer complaints. This would require a productivity of 1.3 to satisfy the objective.

Fiscal Year 2005-06 Results

In the 2005-06 Fiscal Year the Enforcement Unit had two analysts handling consumer complaints. Total staff hours for the year (2 positions x 246 working days x 8 hours) were 3936. In that fiscal year consumer complaints had the following resolutions:

Discipline – 15
Citation and Fine – 11
Cease/Desist – 25
Closure (No Action) – 451

Based on the assigned values this yields a score of 5276.5 for the fiscal year.

Productivity (value score / staff hours) for the fiscal year was 1.3 units per hour. This result satisfied the objective.

Fiscal Year 2006-07 Results

In the 2006-07 Fiscal Year the Enforcement Unit had two analysts handling consumer complaints for the first six months and a third analyst working an 80% schedule contributing since January 2007. Total staff hours for the year through February 28, 2007 are 2886. Through the end of February consumer complaints had the following resolutions:

Discipline – 16
Citation and Fine – 16
Cease/Desist – 22
Closure (No Action) – 339

Based on the assigned values, this yields a value score of 4316.

Productivity (value score / staff hours) through February 28, 2007 is 1.5 units per hour. This is a 15% increase in productivity for the current fiscal year.

Objective 6.3 -- Increase examination staff productivity 15% by June 30, 2010.

Methodology

Productivity is defined as the total number of examinations administered divided by the total time. The exam unit has 2.8 personnel years allocated to develop and administer examinations for registration and licensure. There are 246 working days in a personnel year (52 weeks x 5 days – 14 paid state holidays). Based on 8-hour workdays that allow 5510 total working hours in the exam unit. This figure does not account for vacancies, training time, sick leave, or vacation so the resulting number is expected to understate the actual productivity. However, including these confounding variables would make valid year-to-year comparisons unworkable.

Baseline Period

The 2004-2005 fiscal year will serve as the baseline period. In that year, 6626 exams were administered which yields a productivity of 1.2 examinations per staff hour.

Productivity Target

To meet the 15% productivity increase target the examination unit will have to reach 1.4 examinations per staff hour.

Results for 2005-06 Fiscal Year

In the 2005-06 Fiscal Year, the board administered 7257 examinations, which yields a productivity of 1.3 examinations per staff hour.

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To: Board Members

Date: May 11, 2007

From: Paul Riches
Executive Officer

Telephone: (916) 574-7840

Subject: Budget Update

2006-07 Budget

The board's total spending authority for 2006-07 is \$5 million. This is an increase of approximately \$260,000 (5%) over the 2005-06 fiscal year budget. This increase includes a \$35,000 augmentation to fund the board's share of the iLicensing system for 2006/07.

Current projections indicate a year end balance of approximately \$100,000 (2% of budget authority). This is a significant reduction (7.1%) from prior years). This change is attributed to a number of factors:

1. Increased contracts for consulting and professional services. The board has several significant contracts including the communications audit and program development by BPCubed, supplemental psychometric services by Comira Inc., and strategic planning services by Hatton Management Consultants. The communications audit and program development is a one-time contract expense that will be mostly completed in the current fiscal year. The contracts for psychometric services and strategic planning span multiple fiscal years.
2. Increase interagency contracts for examination services. The board signed an agreement with the Office of Examination Resources to conduct an occupational analysis for marriage and family therapist examinations. This is a one-time expense (repeated every five years) that will mostly completed in the current fiscal year.
3. Increase costs from the Attorney General and Office of Administrative Hearings. This expense is largely caseload driven and the board has approximately doubled its caseload for disciplinary proceedings.

Please see the attached expenditure report and fund condition for more detailed information.

2007-08 Budget

Staff submitted a budget change proposal (BCP) requesting two additional enforcement analysts with an estimated cost of \$163,000 ongoing. This proposal was submitted in response to increasing

consumer complaint workload in the enforcement unit. The BCP proposes to redirect funding from existing line items for Attorney General and Office of Administrative Hearings expenses. Both of these items have had significant unexpended balances in recent years and those resources are needed elsewhere in the board's enforcement program. The BCP was approved and will be included in the annual budget act.

In addition, the board submitted a Spring Finance Letter (SFL) to establish a Staff Services Manager I (Specialist) position with the board. This position would focus on aligning licensing and other board activity with the changes mandated by the Mental Health Services Act (MHSA). This position will be funded out of MHSA administrative funds allocated to the Department of Mental Health. The SFL was approved by both the Assembly and Senate Budget Subcommittees and will be included in the annual budget act. The total cost of this position is approximately \$100,000 per year.

Total budget authority for the board in the 2007/08 fiscal year will increase to approximately \$5.8 million. This is approximately a 15% increase in spending authority over the prior fiscal year. Most of this increase is attributed to price increases resulting from recent collective bargaining agreements and a dramatic increase in costs for the Division of Investigation.

2008-09 Budget

Staff is in the early planning stages for the 2008-09 budget. A number of BCPs are being developed for submission this year. These include proposals related to enforcement, improving customer service, and funding occupational analyses.

BOARD OF BEHAVIORAL SCIENCES
EXPENDITURE REPORT FY 2006/2007

OBJECT DESCRIPTION	FY 2005/2006	FY 2006/2007			
	ACTUAL EXPENDITURES	BUDGET ALLOTMENT	CURRENT AS OF 3/31/07	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONAL SERVICES					
Salary & Wages (Civ Svc Perm)	1,045,321	1,289,337	881,655	1,190,000	99,337
Salary & Wages (Stat Exempt)	85,132	85,488	65,996	87,231	(1,743)
Temp Help (907)(Seasonals)	29,210	14,105	42,102	57,000	(42,895)
Temp Help (915)(Proctors)	0	19,444	0	0	19,444
Board Memb (Per Diem)	9,500	12,900	7,700	9,000	3,900
Overtime	6,203	7,533	3,975	6,000	1,533
Totals Staff Benefits	471,626	541,898	382,613	510,000	31,898
Salary Savings		(57,708)			(57,708)
TOTALS, PERSONAL SERVICES	1,645,992	1,912,997	1,384,041	1,859,231	53,766
OPERATING EXP & EQUIP					
Fingerprint Reports	4,394	36,954	3,148	4,000	32,954
General Expense	80,090	24,643	36,511	50,000	(25,357)
Printing	79,402	90,184	84,961	100,000	(9,816)
Communication	17,051	25,837	5,127	15,000	10,837
Postage	103,109	103,459	108,815	120,000	(16,541)
Travel, In State	63,898	57,955	72,523	90,000	(32,045)
Travel, Out-of-State	0	2,700	1,176	2,700	0
Training	21,767	16,149	10,379	13,000	3,149
Facilities Operations	178,368	187,951	122,156	187,951	0
C&P Services - Interdept.	0	27,287	0	0	27,287
C&P Services-External Contracts	8,405	9,632	29,355	60,000	(50,368)
DEPARTMENTAL PRORATA					
DP Billing	252,057	299,774	224,830	299,774	0
Indirect Distribution Costs	279,793	282,919	212,190	282,919	0
Communication/Educ. Division	16,539	10,701	8,026	10,701	0
D of I Prorata	7,880	8,327	6,245	8,327	0
Consumer Relations Division		11,218	8,414	11,218	0
Interagency Services (OER IACs)	196,680	0	206,907	270,568	(270,568)
Consolidated Data Services	15,000	21,390	1,599	15,000	6,390
Data Processing (Maint,Supplies,Contract)	12,839	4,630	6,950	8,000	(3,370)
Central Admin. Svcs - Pro Rata	146,345	141,971	106,479	141,971	0
EXAM EXPENSES					
Exam Site Rental	65,403	202,894	56,439	72,000	130,894
Exam Contract (Thomson) (404.00)	375,496	293,382	187,590	375,000	(81,618)
Expert Examiners (404.01)	255,957	473,460	246,000	260,000	213,460
ENFORCEMENT					
Attorney General	341,213	560,542	328,492	450,000	110,542
Office of Admin. Hearing	36,859	157,834	74,716	120,000	37,834
Court Reporters	2,623	0	9,745	15,000	(15,000)
Evidence/Witness Fees	42,462	62,583	21,527	28,000	34,583
Division of Investigation	43,063	82,632	61,974	82,632	0
Minor Equipment (226)	26,397	0	25,048	35,000	(35,000)
Replacement/Additional Equipment	448	0	14,069	15,000	(15,000)
TOTAL, OE&E	2,673,538	3,197,008	2,281,391	3,143,761	53,247
TOTAL EXPENDITURES	\$4,319,530	\$5,110,005	\$3,665,432	\$5,002,992	\$107,013
Fingerprints	4,494	(24,000)	1,922	(3,000)	(21,000)
Other Reimbursement	14,545	(26,000)	15,985	(21,000)	(5,000)
Unscheduled Reimbursements	17,903	0	16,610	(22,000)	22,000
Total Reimbursements	36,942	(50,000)	34,517	(46,000)	(4,000)
NET APPROPRIATION	\$4,356,472	\$5,060,005	\$3,699,949	\$4,956,992	\$103,013

0773 - Behavioral Science

Analysis of Fund Condition

(Dollars in Thousands)

NOTE: \$6.0 Million General Fund Repayment Outstanding

2006 Budget Act	ACTUAL 2005-06	2006-07	2007-08	2008-09	2009-10
BEGINNING BALANCE	\$ 4,090	\$ 5,368	\$ 5,800	\$ 5,708	\$ 5,508
Prior Year Adjustment	\$ 47	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 4,137	\$ 5,368	\$ 5,800	\$ 5,708	\$ 5,508
REVENUES AND TRANSFERS					
Revenues:					
125600 Other regulatory fees	\$ 95	\$ 103	\$ 106	\$ 106	\$ 106
125700 Other regulatory licenses and permits	\$ 1,546	\$ 1,581	\$ 1,599	\$ 1,599	\$ 1,599
125800 Renewal fees	\$ 3,581	\$ 3,626	\$ 3,635	\$ 3,635	\$ 3,635
125900 Delinquent fees	\$ 59	\$ 63	\$ 64	\$ 64	\$ 64
141200 Sales of documents	\$ -	\$ -	\$ -	\$ -	\$ -
142500 Miscellaneous services to the public	\$ -	\$ -	\$ -	\$ -	\$ -
150300 <i>Income from surplus money investments</i>	\$ 205	\$ 117	\$ 128	\$ 128	\$ 99
160400 Sale of fixed assets	\$ -	\$ -	\$ -	\$ -	\$ -
161000 Escheat of unclaimed checks and warrants	\$ 3	\$ 3	\$ 3	\$ 3	\$ 3
161400 Miscellaneous revenues	\$ 2	\$ 2	\$ 2	\$ 2	\$ 2
Totals, Revenues	\$ 5,491	\$ 5,495	\$ 5,537	\$ 5,537	\$ 5,508
Transfers <i>from</i> Other Funds					
F00683 Teale Data Center (CS 15.00, Bud Act of 2005)	\$ -	\$ -	\$ -	\$ -	\$ -
Transfers <i>to</i> Other Funds	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 5,491	\$ 5,495	\$ 5,537	\$ 5,537	\$ 5,508
Totals, Resources	\$ 9,628	\$ 10,863	\$ 11,337	\$ 11,245	\$ 11,016
EXPENDITURES					
Disbursements:					
<i>Budget Act of 2006</i>					
1110 Program Expenditures (State Operations) - Galley 2	\$ 4,260	\$ 4,903	\$ 5,625	\$ 5,738	\$ 5,852
1110 Allocation for Employee Compensation		\$ 140			
1110 Adjustment		\$ 20	\$ 4		
Total Disbursements	\$ 4,260	\$ 5,063	\$ 5,629	\$ 5,738	\$ 5,852
FUND BALANCE					
Reserve for economic uncertainties	\$ 5,368	\$ 5,800	\$ 5,708	\$ 5,508	\$ 5,163
Months in Reserve	12.7	12.4	11.9	11.3	#REF!

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED
- B. EXPENDITURE GROWTH PROJECTED AT 2% BEGINNING FY 2008-09

QUARTERLY LICENSING STATISTICS

(1/1/2007- 3/31/2007)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	312	645	266	372	28	1,623
Applications Approved	280	564	282	304	18	1,448
Avg. Processing Time	23.9 days	26.4 days	40.4 days	39.4 days	52.1 days	36.4 days
Avg. Processing Time subtracting time for deficiencies	13.1 days	13.3 days	23.3 days	13.8 days	8.3 days	14.4 days

QUARTERLY LICENSING STATISTICS

(10/1/2006- 12/31/2006)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	396	639	234	354	16	1,639
Applications Approved	422	593	181	308	14	1,518
Avg. Processing Time	24.7 days	26.6 days	43.6 days	43 days	34.2 days	34.4 days
Avg. Processing Time subtracting time for deficiencies	11.6 days	14.6 days	18.8 days	14.3 days	12.8 days	14.4 days

QUARTERLY LICENSING STATISTICS

(7/1/2006- 9/30/2006)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	661	1,027	231	336	24	2,279
Applications Approved	623	996	198	289	27	2,133
Avg. Processing Time	19.1 days	20.4 days	28.3 days	32.3 days	33.9 days	26.8 days
Avg. Processing Time subtracting time for deficiencies	8.6 days	9.3 days	9.5 days	9.4 days	7.6 days	8.9 days

QUARTERLY LICENSING STATISTICS

(4/1/2006- 6/30/2006)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	445	645	247	422	38	1,797
Applications Approved	380	564	199	417	26	1,586
Avg. Processing Time	21.4 days	27.9 days	40.7 days	38 days	46.1 days	34.8 days
Avg. Processing Time subtracting time for deficiencies	10.6 days	5.9 days	10.3 days	11.8 days	2.5 days	8.2 days

QUARTERLY LICENSING STATISTICS

(1/1/2006- 3/31/2006)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	298	548	231	372	13	1,462
Applications Approved	298	525	167	367	15	1,372
Avg. Processing Time	36.6 days	37.9 days	36.2 days	45.4 days	68.7 days	45 days
Avg. Processing Time subtracting time for deficiencies	9.5 days	12.6 days	13.5 days	19 days	12.3 days	13.4 days

QUARTERLY LICENSING STATISTICS

(10/1/2005- 12/31/2005)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	334	537	248	284	20	1,423
Applications Approved	339	621	194	298	14	1,466
Avg. Processing Time	39 days	34.4 days	26 days	64.1 days	50.6 days	42.8 days
Avg. Processing Time subtracting time for deficiencies	10.7 days	12.5 days	12.7 days	41.8 days	8.3 days	17.2 days

QUARTERLY LICENSING STATISTICS

(7/1/2005 - 9/30/2005)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	561	1,062	270	390	28	2,311
Applications Approved	547	957	252	325	20	2,101
Avg. Processing Time	28.1 days	33.3 days	35.6 days	60.3 days	41.3 days	39.7 days
Avg. Processing Time subtracting time for deficiencies	9.4 days	13.8 days	18.4 days	44.9 days	8.8 days	19.1 days

QUARTERLY LICENSING STATISTICS

(4/1/2005-6/30/2005)

	Associate Clinical Social Worker	Marriage and Family Therapist Intern	Licensed Clinical Social Worker	Marriage and Family Therapist	Licensed Educational Psychologist	Totals
Applications Received	377	599	263	338	37	1,614
Applications Processed	346	460	301	298	33	1,438
Avg. Processing Time	47.5 days	42.1 days	51.1 days	63.8 days	64.8 days	53.9 days
Avg. Processing Time subtracting time for deficiencies	11.1 days	12.6 days	37 days	49.9 days	6.4 days	23.4 days

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Sacramento, CA 95834
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To: Board Members **Date:** May 11, 2007

From: Christy Berger **Telephone:** (916) 574-7847
Legislation Analyst

Subject: **Sponsor Legislation to Adopt a Retired License Status for MFTs, LCSWs, and LEPs**

Background

The Board of Behavioral Sciences (Board) receives numerous inquiries and requests from licensees regarding a retired license status.

Currently, if a licensee retires from practice, he/she can do either of the following:

- 1) Request that his/her license be placed on inactive status and pay a biennial fee of one half the standard active renewal fee (inactive license fees are \$65 for MFTs, \$50 for LCSWs, and \$40 for LEPs). Renewing with an inactive status, by definition, means that a licensee may not engage in practice and is exempt from continuing education requirements.
- 2) Not pay a fee and allow his/her license to expire. Allowing a license to expire means that the license will go into delinquent status and will ultimately be cancelled after five years. (The Board has proposed to change this period to three years).

The Board's web site, as well as many of the other Department of Consumer Affairs (DCA) web sites, provides the following license status definitions:

Cancelled: License has been expired for at least five years and is not renewable; the registration has been automatically cancelled upon issuance of a license; or has reached its 6-year limit.

Delinquent: Renewal fees and compliance with the continuing education requirement (if applicable) are past due; or the licensee/registrant has chosen not to renew. NOTE: The license/registration is expired, and no practice is permitted while the license is delinquent/expired.

Inactive: License is inactive. Licensee may not practice in California. NOTE: Licensee is exempt from complying with the continuing education requirements.

Clear: License renewal fees have been paid and continuing education requirements (if applicable) have been met.

The two primary complaints from licensees with respect to the license status options that are available to them upon retirement are as follows:

- Renewing with an inactive status requires paying an inactive renewal fee every two years when an individual does not intend to ever practice again
- If a licensee allows his/her license to expire, the Board's web site labels his/her license status as "Delinquent" until the license is cancelled after five years.

Currently, the following boards within DCA have a retired license status available to their licensees: Board of Pharmacy; California Architects Board; Board for Professional Engineers and Land Surveyors; Medical Board of California; and Board of Registered Nursing. Attachment A provides a table that compares the retired license status provisions (i.e., fees, conditions, etc.) of those boards.

On January 10, 2007, the Consumer Protection Committee discussed the possibility of creating a retired license status for the Board's licensees. The Committee members expressed interest in creating a retired license status and requested that staff come back with proposed language.

Discussion

Staff has prepared proposed language (Attachment B) which is modeled after retired license status language for California pharmacists, architects, professional engineers, and land surveyors. For reference, Attachment C provides the relevant laws for all of the aforementioned agencies.

On April 11, 2007, the Committee asked staff to look into the following and/or make the following modifications:

- *Should a certain length of licensure be required prior to allowing a retired status?*
Staff found that only the Board for Engineers and Land Surveyors requires a waiting period prior to retired status. Staff attempted to contact this Board to determine the reason for the waiting period, but did not receive a call back. Staff recommends no waiting period be required.
- *What should be the processing fee for going from active to retired status?*
Inactive license fees are \$65 for MFTs, \$50 for LCSWs, and \$40 for LEPs. Staff proposes the one-time processing fee for going to a retired status be minimal, at \$40 across license types.
- *How should a request for reinstatement from retired to active be handled?*
 - If reinstating within three years of going to retired status, continuing education would have to be completed for the current renewal cycle, and the remaining renewal fee would have to be paid.
 - If reinstating after three years, he or she must apply for licensure and pass the current examinations. Educational and experience requirements for licensure would be waived.

Recommendation

On April 11, 2007, the Committee recommended that the Board approve the proposed language, with modifications, in order to pursue implementing a retired license status for MFTs, LCSWs, and LEPs.

Attachments

- A. Retired License Comparison Table
- B. Proposed Legislative Language
- C. Other DCA Retired License Status Laws

Retired License Comparison Table – DCA Boards

	Pharmacy	Architects	Engineers	Medical
Retired License Fee	Yes - \$30	Yes - \$200, if current	Yes - \$87.50	No - if license is current; otherwise, all accrued renewal fees, delinquent fee, and penalty fee must be submitted with application
Conditions			<ul style="list-style-type: none"> Has been licensed by the board for a min. of 5 years within CA and a min. of 20 years within the U.S. or territory of the U.S. 	
	<ul style="list-style-type: none"> Holds a license that is current and capable of being renewed 	<ul style="list-style-type: none"> Holds a license that is current and active or capable of being renewed 	<ul style="list-style-type: none"> Holds a license that is current and active and capable of being renewed 	<ul style="list-style-type: none"> Holds a license that is current or capable of being renewed
	<ul style="list-style-type: none"> Has not had his/her license suspended, revoked, or otherwise disciplined, or subject to pending discipline 	<ul style="list-style-type: none"> Has not had his/her license suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action 	<ul style="list-style-type: none"> Holds a license that is not suspended, revoked, or otherwise disciplined, or subject to pending discipline 	
	<ul style="list-style-type: none"> Shall not engage in activity that requires a license 	<ul style="list-style-type: none"> Shall not engage in activity that requires a license 	<ul style="list-style-type: none"> Shall not engage in activity that requires a license 	<ul style="list-style-type: none"> Shall not engage in the practice of medicine or the practice of podiatric medicine
Permitted Titles	<ul style="list-style-type: none"> Retired Pharmacist Pharmacist, Retired 	<ul style="list-style-type: none"> Retired Architect Architect, Retired 	<ul style="list-style-type: none"> Retired PE PE, Retired Retired Civil Engineer etc. 	
License Renewal	Not Required	Not Required	Not Required	Not Required
Restoring a Retired License to Active Status	Shall pass the examination that is required for initial licensure	Shall comply with the board's license renewal requirements	Shall pass the second division examination that is required for initial licensure	Must complete an application and pay the full renewal fee
Continuing Education	Exempt from CE requirements	N/A	N/A	Exempt from CE requirements

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**BOARD OF BEHAVIORAL SCIENCES
PROPOSED LEGISLATIVE LANGUAGE**

§ 4984.41 Retired License, Conditions (MFT)

(a) The board shall issue, upon application and payment of the fee fixed by this chapter, a retired license to a marriage and family therapist who holds a license that is current and active or capable of being renewed and whose license is not suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active marriage and family therapist license is required. A marriage and family therapist holding a retired license shall be permitted to use the titles "retired marriage and family therapist" or "marriage and family therapist, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) The holder of a retired license issued less than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice marriage and family therapy to active status by:

(1) Paying the current renewal fee.

(2) Completing the required continuing education as specified in Section 4980.54.

(e) The holder of a retired license issued more than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice marriage and family therapy to active status by:

(1) Applying for licensure and paying the required fees.

(2) Passing the examinations required for licensure.

~~(d) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, he or she shall pass the examination that is required for initial licensure with the board.~~

~~(e) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, he or she shall pass the examination that is required for initial licensure with the board.~~

§4984.7. FEE SCHEDULE (MFT)

The amount of the fees prescribed by this chapter that relate to licensing of persons to engage in the business of marriage and family therapy is that established by the following schedule:

(a) The fee for applications for examination received on or after January 1, 1987, shall be one hundred dollars (\$100).

(b) The fee for issuance of the initial license shall be a maximum of one hundred eighty dollars (\$180).

(c) For those persons whose license expires on or after January 1, 1996, the renewal fee shall be a maximum of one hundred eighty dollars (\$180).

(d) The delinquency fee shall be ninety dollars (\$90). Any person who permits his or her license to become delinquent may have it restored only upon the payment of all fees that he or she would

have paid if the license had not become delinquent, plus the payment of any and all outstanding delinquency fees.

(e) The fee for issuance of a retired license shall be forty dollars (\$40).

~~(e)-(f)~~ For those persons registering as interns on or after January 1, 1996, the registration fee shall be seventy-five dollars (\$75).

~~(f)-(g)~~ For those persons whose registration as an intern expires on or after January 1, 1996, the renewal fee shall be seventy-five dollars (\$75).

~~(g)-(h)~~ The standard written examination fee shall be one hundred dollars (\$100). After successfully passing the standard written examination, each applicant for the clinical vignette written examination shall submit one hundred dollars (\$100). Applicants failing to appear for any examination, once having been scheduled, shall forfeit any examination fees paid. Effective January 1, 2005, the examination fees for the standard written and clinical vignette written examinations shall be based on the actual cost to the board of developing, purchasing, and grading of each examination, plus the actual cost to the board of administering each examination. The written examination fees shall be adjusted periodically by regulation to reflect the actual costs incurred by the board.

~~(h)-(i)~~ An applicant who fails any standard or clinical vignette written examination may within one year from the notification date of that failure, retake the examination as regularly scheduled without further application upon payment of one hundred dollars (\$100) for the standard written reexamination and one hundred dollars (\$100) for the clinical vignette written reexamination. Thereafter, the applicant shall not be eligible for further examination until he or she files a new application, meets all current requirements, and pays all fees required. Persons failing to appear for the reexamination, once having been scheduled, shall forfeit any reexamination fees paid.

~~(i)-(j)~~ The fee for rescoring any written examination shall be twenty dollars (\$20).

~~(j)-(k)~~ The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20).

~~(k)-(l)~~ The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

§ 4989.43 Retired License, Conditions (LEP)

(a) The board shall issue, upon application and payment of the fee fixed by this chapter, a retired license to a licensed educational psychologist who holds a license that is current and active or capable of being renewed and whose license is not suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active educational psychologist license is required. A licensed educational psychologist holding a retired license shall be permitted to use the titles "retired licensed educational psychologist" or "licensed educational psychologist, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) The holder of a retired license issued less than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice educational psychology to active status by:

(1) Paying the current renewal fee.

(2) Completing the required continuing education as specified in Section 4980.54.

(e) The holder of a retired license issued more than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice educational psychology to active status by:

(1) Applying for licensure and paying the required fees.

(2) Passing the examinations required for licensure.

~~(d) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, he or she shall pass the examination that is required for initial licensure with the board.~~

~~(e) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, he or she shall pass the examination that is required for initial licensure with the board.~~

4989.68. FEE SCHEDULE

(a) The board shall assess the following fees relating to the licensure of educational psychologists:

(1) The application fee for examination eligibility shall be one hundred dollars (\$100).

(2) The fee for issuance of the initial license shall be a maximum amount of one hundred fifty dollars (\$150).

(3) The fee for license renewal shall be a maximum amount of one hundred fifty dollars (\$150).

(4) The delinquency fee shall be seventy-five dollars (\$75). A person who permits his or her license to become delinquent may have it restored only upon payment of all the fees that he or she would have paid if the license had not become delinquent, plus the payment of any and all delinquency fees.

(5) The fee for issuance of a retired license shall be forty dollars (\$40).

~~(5)-(6)~~ The written examination fee shall be one hundred dollars (\$100). An applicant who fails to appear for an examination, once having been scheduled, shall forfeit any examination fees he or she paid.

~~(6)-(7)~~ The fee for rescoring a written examination shall be twenty dollars (\$20).

~~(7)-(8)~~ The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

~~(8)-(9)~~ The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(b) With regard to all license, examination, and other fees, the board shall establish fee amounts at or below the maximum amounts specified in this chapter.

§ 4996.61 Retired License, Conditions (LCSW)

(a) The board shall issue, upon application and payment of the fee fixed by this chapter, a retired license to a licensed clinical social worker who holds a license that is current and active or capable of being renewed and whose license is not suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active clinical social worker license is required. A licensed clinical social worker holding a retired license shall be permitted to use the titles "retired licensed clinical social worker" or "licensed clinical social worker, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) The holder of a retired license issued less than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice clinical social work to active status by:

(1) Paying the current renewal fee.

(2) Completing the required continuing education as specified in Section 4980.54.

(e) The holder of a retired license issued more than three years ago, who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice clinical social work to active status by:

(1) Applying for licensure and paying the required fees.

(2) Passing the examinations required for licensure.

~~(d) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, he or she shall pass the examination that is required for initial licensure with the board.~~

~~(e) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, he or she shall pass the examination that is required for initial licensure with the board.~~

§4996.6. RENEWAL AND DELINQUENCY FEES; RESTORATION OF DELINQUENT LICENSE; DUPLICATE REGISTRATION, LICENSE OR CERTIFICATE FEES; CERTIFICATE OR LETTER OF GOOD STANDING FEES

(a) The renewal fee for licenses that expire on or after January 1, 1996, shall be a maximum of one hundred fifty-five dollars (\$155) and shall be collected on a biennial basis by the board in accordance with Section 152.6. The fees shall be deposited in the State Treasury to the credit of the Behavioral Sciences Fund.

(b) Licenses issued under this chapter shall expire no more than 24 months after the issue date. The expiration date of the original license shall be set by the board.

(c) To renew an unexpired license, the licensee shall, on or before the expiration date of the license, do the following:

(1) Apply for a renewal on a form prescribed by the board.

(2) Pay a two-year renewal fee prescribed by the board.

(3) Certify compliance with the continuing education requirements set forth in Section 4996.22.

(4) Notify the board whether he or she has been convicted, as defined in Section 490, of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other state, subsequent to the licensee's last renewal.

(d) If the license is renewed after its expiration, the licensee shall, as a condition precedent to renewal, also pay a delinquency fee of seventy-five dollars (\$75).

(e) Any person who permits his or her license to become delinquent may have it restored at any time within five years after its expiration upon the payment of all fees that he or she would have paid if the license had not become delinquent, plus the payment of all delinquency fees.

(f) A license that is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter; however, the licensee may apply for and obtain a new license if:

(1) No fact, circumstance, or condition exists that, if the license were issued, would justify its revocation or suspension.

(2) He or she pays the fees that would be required if he or she were applying for a license for the first time.

(3) He or she takes and passes the current licensing examinations as specified in Section 4996.1.

(g) The fee for issuance of any replacement registration, license, or certificate shall be twenty dollars (\$20).

(h) The fee for issuance of a certificate or letter of good standing shall be twenty-five dollars (\$25).

(i) The fee for issuance of a retired license shall be forty dollars (\$40).

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RETIRED LICENSE STATUS LAWS AND REGULATIONS (FOR OTHER DCA BOARDS)

BOARD OF PHARMACY

BPC 4200.5

(a) The board shall issue, upon application and payment of the fee established by Section 4400 [see below], a retired license to a pharmacist who has been licensed by the board. The board shall not issue a retired license to a pharmacist whose license has been revoked.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active pharmacist's license is required. A pharmacist holding a retired license shall be permitted to use the titles "retired pharmacist" or "pharmacist, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, he or she shall pass the examination that is required for initial licensure with the board.

BPC 4400

The amount of fees and penalties prescribed by this chapter, except as otherwise provided is that fixed by the board according to the following schedule:

...

(t) The fee for issuance of a retired license pursuant to Section 4200.5 shall be thirty dollars (\$30).

...

CALIFORNIA ARCHITECTS BOARD

BPC 5600.4

(a) The board shall issue, upon application and payment of the fee fixed by this chapter, a retired license to an architect who holds a license that is current and active or capable of being renewed pursuant to Section 5600.2 [see below] and whose license is not suspended, revoked, or otherwise punitively restricted by the board or subject to disciplinary action under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active architect's license is required. An architect holding a retired license shall be permitted to use the title "architect retired" or "retired architect."

(c) The holder of a retired license shall not be required to renew that license.

(d) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, the holder of a retired license shall comply with Section 5600.3 [see below].

BPC 5600.2

Except as otherwise provided in this chapter, a license which has expired may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the board, and payment of all accrued and unpaid renewal fees. If a license is renewed more than 30 days after its expiration, the licenseholder, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date provided in this chapter which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

BPC 5600.3

A license which is not renewed within five years after its expiration may not be renewed, restored, reissued, or reinstated thereafter. The holder of the expired license may apply for and obtain a new license only if he or she pays all of the fees, and meets all of the requirements set forth in this chapter for obtaining an original license, except as follows:

- (a) An examination shall not be required if the expired license was issued without an examination.
- (b) Examination may be waived by the board if it finds that with due regard for the public interest, the holder of the expired license is qualified to practice architecture.
- (c) The holder of the expired license shall not be required to meet the qualifications set forth in this chapter relating to education.

The board may, by regulation, authorize the waiver or refund of all or any part of the application fee paid by a person to whom a license is issued without an examination under this section.

BPC 5604

The fees prescribed by this chapter for architect applicants or architect license holders shall be fixed by the board as follows:

...

(c) The fee for an original license at an amount equal to the renewal fee in effect at the time the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be fixed at an amount equal to 50 percent of the renewal fee in effect at the time the license is issued. The board may, by appropriate regulation, provide for the waiver or refund of the fee for an original license if the license is issued less than 45 days before the date on which it will expire.

...

(f) The renewal fee may not exceed two hundred dollars (\$200).

...

(h) The fee for a retired license may not exceed the fee prescribed in subdivision (c).

16 CCR 144

Pursuant to Section 5604 of the code, the following fees are fixed by the Board effective November 1, 1996.

...

(e) The biennial renewal fee commencing with the renewal period which begins on or after January 1, 1989 shall be two hundred dollars (\$200).

...

BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

BPC 6762.5

(a) The board shall issue, upon application and payment of the fee established by Section 6799 [see below], a retired license (registration), to an engineer who has been licensed by the board for a minimum of 5 years within California and a minimum of 20 years within the United States or territory of the United States, and who holds a license that is not suspended, revoked, or otherwise disciplined, or subject to pending discipline under this chapter.

(b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active engineer's license is required. An engineer holding a retired license shall be permitted to use the

titles "retired professional engineer," "professional engineer, retired," or either of those titles with the licensee's branch designation inserted for the word "professional" for example, "retired civil engineer" or "civil engineer, retired."

(c) The holder of a retired license shall not be required to renew that license.

(d) In order for the holder of a retired license issued pursuant to this section to restore his or her license to active status, he or she shall pass the second division examination that is required for initial licensure with the board.

BPC 6799

The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for registration as a professional engineer and each application for authority level designation at not more than four hundred dollars (\$400), and for each application for certification as an engineer-in-training at not more than one hundred dollars (\$100).

...

(d) The fee for a retired license at not more than 50 percent of the professional engineer application fee in effect on the date of application.

...

16 CCR 407

(a) All fees required by provisions of the code as implemented by the board shall be transmitted by money order, bank draft, cash or check, payable to the Department of Consumer Affairs, at Sacramento.

...

(e) The fee for each retired license shall be \$87.50; no renewal fee or other fee shall be charged for the retired license. (As used in this subdivision, "license" includes certificate of registration or license as a professional engineer, licensure as a professional land surveyor, and certificates of authority to use the titles "structural engineer," "geotechnical engineer," "soil engineer," "soils engineer," or "consulting engineer.")

...

MEDICAL BOARD OF CALIFORNIA

BPC 2439

(a) Every licensee is exempt from the payment of the renewal fee and requirement for continuing medical education if the licensee has applied to the Division of Licensing for a retired license. The holder of a retired license may not engage in the practice of medicine or the practice of podiatric medicine.

(b) If a physician and surgeon has applied to convert from retired status to active status on or after January 1, 2004, but prior to January 1, 2005, the fee to change license status shall be waived, unless the change in status coincides with the physician and surgeon's license renewal date. The board shall refund any fees paid by a physician and surgeon to change from retired to active status after January 1, 2004, and before January 1, 2005, unless the change in status coincides with the physician and surgeon's license renewal date.

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To: Board Members **Date:** May 11, 2007

From: Christy Berger **Telephone:** (916) 574-7847
Board of Behavioral Sciences

Subject: **Sponsor Legislation to Revise LEP Statutes Affected by Senate Bill 1475**

Background

Attached to this memorandum is a draft of changes to the statutes governing Licensed Educational Psychologists (LEPs). This draft was developed by staff in response to a number of complaints from licensees regarding changes that took effect January 1, 2007 via SB 1475. As part of this legislation, certain provisions increased the parallelism between the LEP statute and the Marriage and Family Therapist (MFT) and Licensed Clinical Social Worker (LCSW) statutes, including:

- Establishing a continuing education (CE) requirement for LEPs.
- The legislation set the CE requirement at 60 hours every two years. At the time of the legislation, LEPs who received their school psychologist credential on or after July 1, 1994 were required to complete 150 hours of professional development every five years, an average of 30 hours per year.
 - Requiring qualifying experience to have been gained in the six years prior to application for licensure.
 - Deleted the Board's ability to deem a degree with a title other than those specified in statute as equivalent.

Draft language was shared with interest groups including the California Association of Licensed Educational Psychologists and the California Association of School Psychologists. The board received no comment or opposition to the proposal at that time. Stakeholder concerns received after the legislation passed were as follows:

- The Commission on Teacher Credentialing (CTC) deleted the requirement for 150 hours of professional development effective January 1, 2007 (Senate Bill 1209, Chapter 517, Statutes of 2006). See attachment.
- The one year of supervised professional experience required in an accredited school psychology program often takes place more than six years prior to applying for licensure. Many school psychologists do not apply for LEP licensure until later in their careers.
- Many degrees that would otherwise qualify do not have one of the titles specified in statute.

Discussion

In response to stakeholder comment, the following changes to the LEP statute are proposed:

- Change the CE requirement to 36 hours every two years, consistent with MFT and LCSW statute.
- Permit the one year of supervised professional experience required in an accredited school psychology program to have been gained at any time prior to application for licensure.
- Restore the Board's ability to deem a degree with a title other than those specified in statute as equivalent.

Recommendation

At its meeting on April 11, 2007, the Consumer Protection Committee recommended that the Board sponsor legislation in 2007 regarding the LEP statutes consistent with this proposal with several modifications.

Attachments

Proposed Language
Memo from CTC

**PROPOSED LANGUAGE
LEP STATUTES - Revised**

4989.20. LICENSURE REQUIREMENTS

(a) The board may issue a license as an educational psychologist if the applicant satisfies, with proof satisfactory to the board, the following requirements:

(1) Possession of, at minimum, a master's degree in psychology, educational psychology, school psychology, ~~or~~ counseling and guidance or a degree deemed equivalent by the board. This degree shall be obtained from an educational institution approved by the board according to the regulations adopted under this chapter.

(2) Attainment of 18 years of age.

(3) No commission of an act or crime constituting grounds for denial of licensure under Section 480.

(4) Successful completion of 60 semester hours of postgraduate work in pupil personnel services.

~~(5) Completion of three years of full-time experience as a credentialed school psychologist in the public schools. At least one year of the experience required by this paragraph shall be supervised professional experience in an accredited school psychology program or obtained under the direction of a licensed psychologist or a licensed educational psychologist. The applicant shall not be credited with experience obtained more than six years prior to filing the application for licensure.~~

(5) Two years of full-time or equivalent to full-time experience as a credentialed school psychologist in the public schools. The applicant shall not be credited with such experience obtained more than six years prior to filing the application for licensure.

(6) One of the following:

(A) One year of supervised professional experience in an accredited school psychology program; or,

(B) In addition to paragraph (5), one year of full-time or equivalent to full-time experience as a credentialed school psychologist in the public schools obtained under the direction of a licensed educational psychologist or a licensed psychologist with experience in educational assessment and testing.

(6) Passage of an examination specified by the board.

4989.34. CONTINUING EDUCATION REQUIREMENTS

(a) To renew his or her license, a licensee shall certify to the board, on a form prescribed by the board, completion in the preceding two years of not less than ~~60~~ 36 hours of approved continuing education in, or relevant to, educational psychology.

~~(b) Notwithstanding subdivision (a), a licensee who possesses a current pupil personnel services credential issued on or after July 1, 1994, shall be exempt from the continuing education requirement.~~

~~(c)~~ (b) (1) The continuing education shall be obtained from either an accredited university or a continuing education provider approved by the board.

(2) The board shall establish, by regulation, a procedure for approving providers of continuing education courses, and all providers of continuing education shall comply with procedures established by the board. The board may revoke or deny the right of a provider to offer continuing education coursework pursuant to this section for failure to comply with the requirements of this section or any regulation adopted pursuant to this section.

~~(3) The National Association of School Psychologists (NASP) is an approved continuing education provider.~~

~~(d)~~ (c) Training, education, and coursework by approved providers shall incorporate one or more of the following:

(1) Aspects of the discipline that are fundamental to the understanding or the practice of educational psychology.

(2) Aspects of the discipline of educational psychology in which significant recent developments have occurred.

(3) Aspects of other disciplines that enhance the understanding or the practice of educational psychology.

~~(e)~~ (d) The board may audit the records of a licensee to verify completion of the continuing education requirement. A licensee shall maintain records of the completion of required continuing education coursework for a minimum of two years and shall make these records available to the board for auditing purposes upon its request.

~~(f)~~ (e) The board may establish exceptions from the continuing education requirements of this section for good cause, as determined by the board.

~~(g)~~ (f) The board shall, by regulation, fund the administration of this section through continuing education provider fees to be deposited in the Behavioral Sciences Fund. The amount of the fees shall be sufficient to meet, but shall not exceed, the costs of administering this section.

~~(h)~~ (g) The continuing education requirements of this section shall comply fully with the guidelines for mandatory continuing education established by the Department of Consumer Affairs pursuant to Section 166.

4989.44. INACTIVE LICENSE

(a) A licensee may apply to the board to request that his or her license be placed on inactive status.

(b) A licensee on inactive status shall be subject to this chapter and shall not engage in the practice of educational psychology in this state.

(c) A licensee who holds an inactive license shall pay a biennial fee of one-half of the amount of the standard renewal fee.

(d) A licensee on inactive status who has not committed an act or crime constituting grounds for denial of licensure may, upon request, restore his or her license to practice educational psychology to active status. A licensee requesting that his or her license be placed on active

status between renewal cycles shall pay the remaining one-half of his or her renewal fee. A licensee requesting to restore his or her license to active status, whose license will expire less than one year from the date of the request, shall complete ~~30~~ 18 hours of continuing education as specified in Section 4989.34. A licensee requesting to restore his or her license to active status, whose license will expire more than one year from the date of the request, shall complete ~~60~~ 36 hours of continuing education as specified in Section 4989.34.

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COMMISSION ON TEACHER CREDENTIALING

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OFFICE OF THE EXECUTIVE DIRECTOR

November 14, 2006

06-0017

To: All Individuals and Groups Interested in the Activities of the California
Commission on Teacher Credentialing

From: Dale A. Janssen,
Interim Executive Director

Subject: Senate Bill 1209 Changes in Professional Growth Requirements for Credential
Renewal

Senate Bill 1209 (Chapter 517, Statutes of 2006) was signed by the Governor on September 28, 2006. One of the provisions in the bill shifts the professional growth requirements from a state requirement for credential renewal to local employing agencies.

Beginning January 1, 2007, verification of professional growth requirements will no longer be a requirement for the renewal of professional clear credentials. This includes both the 150 clock hours of activities and the experience requirement. This change affects all teaching and service credentials, including the designated subjects teaching credentials, except Child Development Permits.

Because child development permits were not included in the provisions of the bill, professional growth requirements for renewal of child development permits will continue to be required to be submitted as part of the renewal process. Information about child development professional growth requirements may be found at the following link on the Commission's website: http://www.ctc.ca.gov/credentials/manuals-handbooks/PG_Manual_ChildDev.pdf.

Currently, requirements for all professional clear credentials require that the documents have the same expiration dates. For example, if an individual held a professional clear multiple subject teaching credential and a pupil personnel services credential, the documents had the same expiration date. This will no longer be necessary after January 1, 2007. However, if a credential serves as a prerequisite for another credential, such as a single subject credential for an administrative services credential, the documents will continue to be 'tied' together with the same expiration dates. The Commission will be returning to the term 'clear' on credentials issued after January 1, 2007.

As a result of the changes outlined above, the Commission will no longer issue the two-year extension for individuals who did not complete their professional growth requirements.

Online Renewal Process

By January 1, 2007, the Commission's online renewal process will be changed to remove the need to verify professional growth requirements for all types of credentials except the child development permits (Teacher, Master Teacher, Site Supervisor, and Program Director).

Questions

For further questions about professional growth, contact the Commission's Information Services Unit at 1-888-921-2682, Monday through Friday between 1:00 PM to 4:45 PM or by email at credentials@ctc.ca.gov.

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To: Board Members **Date:** May 14, 2007

From: Christy Berger **Telephone:** (916) 574-7847
Board of Behavioral Sciences

Subject: **Sponsor Legislation to Allow Supervisors the Ability to Conduct Required One-On-One Supervision Sessions with MFT Interns and ASW Registrants via Videoconferencing**

Background

Marriage and Family Therapist Interns (IMF) and Associate Clinical Social Workers (ASW) are required to obtain a minimum of one hour of direct supervision per week for a minimum of 104 weeks. The California Association of Marriage and Family Therapists (CAMFT), on behalf of one of its members, had asked the Board to explore the possibility of allowing supervisors to conduct required one-on-one supervision sessions with IMFs via video conferencing. CAMFT's reasons for the request were:

- (1) Appropriate placements for IMFs and trainees are becoming more difficult to find, largely because many agencies are reluctant to provide the necessary quantity of supervision; and,
- (2) Due to geographical limitations, most supervisees do not have access to a choice of supervision types, theoretical orientations, or experiences.

The Consumer Protection Committee considered this issue at its January 2006 meeting, and directed staff to bring back a specific proposal for limited use of video conferencing for remote locations and specialty access for ASWs and IMFs. The Committee reconsidered the proposal at its April 2006 meeting and it was suggested that perhaps a pilot study should first take place due to concerns regarding confidentiality. After further consideration, however, it is not clear what would be gained from a pilot study. In the revised proposal, the supervisor is responsible for client confidentiality, which would be done by ensuring a secure, private connection and data encryption, for example.

Additionally, the original proposal would have allowed a maximum of 12 hours of direct supervision via videoconferencing when a hardship exists in obtaining supervision at the setting. The supervisor would have been required to certify that a hardship existed, and the applicant would retain that certification for submission with his or her licensure application. However, staff recommends that this be changed to 30 hours with or without a hardship situation. There is no good reason to limit this type of supervision to twelve hours out of a minimum of 104 hours. Additionally, it would be difficult for staff to make a judgment regarding what constitutes a qualifying hardship situation.

Recommendation

On April 11, 2007, the Committee recommended that the Board approve the attached proposed language. However, staff has an additional question for the Board to consider:

- Should an allowance for group supervision be made? If so, how many hours of group supervision should be allowed via videoconferencing (group supervision is done in two hour increments, individual in one hour)?

Attachment

Proposed Language

**PROPOSED LANGUAGE
SUPERVISION VIA VIDEOCONFERENCING**

§4980.43. PROFESSIONAL EXPERIENCE; INTERNS OR TRAINEES

(a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

(1) A minimum of 3,000 hours completed during a period of at least 104 weeks.

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master's or doctor's degree.

(4) Not more than 1,300 hours of experience obtained prior to completing a master's or doctor's degree. This experience shall be composed as follows:

(A) Not more than 750 hours of counseling and direct supervisor contact

(B) Not more than 250 hours of professional enrichment activities excluding personal psychotherapy.

(C) Not more than 100 hours of personal psychotherapy. The applicant shall be credited for three hours of experience for each hour of personal psychotherapy.

(5) No hours of experience may be gained prior to completing either 12 semester units or 18 quarter units of graduate instruction and becoming a trainee except for personal psychotherapy.

(6) No hours of experience gained more than six years prior to the date the application for licensure was filed, except that up to 500 hours of clinical experience gained in the supervised practicum required by subdivision (b) of Section 4980.40 shall be exempt from this six-year requirement.

(7) Not more than 1000 hours of experience for direct supervisor contact and professional activities.

(A) An intern working in a governmental entity, a school, college or university, or an institution both nonprofit and charitable may obtain up to 30 hours of the required weekly direct supervisor contact via two-way, real time videoconferencing. The supervisor is responsible for ensuring that client confidentiality is upheld.

(8) Not more than 500 hours of experience providing group therapy or group counseling.

(9) Not more than 250 hours of experience administering and evaluating psychological tests of counselees, writing clinical reports, writing progress notes, or writing process notes.

(10) Not more than 250 hours of experience providing counseling or crisis counseling on the telephone.

(11) Not less than 500 total hours of experience in diagnosing and treating couples, families, and children.

(b) All applicants, trainees, and registrants shall be at all times under the supervision of a supervisor who shall be responsible for ensuring that the extent, kind, and quality of counseling performed is consistent with the training and experience of the person being supervised, and who shall be responsible to the board for compliance with all laws, rules, and regulations governing the practice of marriage and family therapy. Supervised experience shall be gained by interns and trainees either as an employee or as a volunteer. The requirements of this chapter regarding gaining hours of experience and supervision are applicable equally to employees and volunteers. Experience shall not be gained by interns or trainees as an independent contractor.

(c) Supervision shall include at least one hour of direct supervisor contact in each week for which experience is credited in each work setting, as specified:

(1) A trainee shall receive an average of at least one hour of direct supervisor contact for every five hours of client contact in each setting.

(2) Each individual supervised after being granted a qualifying degree shall receive an average of at least one hour of direct supervisor contact for every 10 hours of client contact in each setting in which experience is gained.

(3) For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons.

(4) All experience gained by a trainee shall be monitored by the supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios specified in this subdivision shall be applicable to all hours gained on or after January 1, 1995.

(d) (1) A trainee may be credited with supervised experience completed in any setting that meets all of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the trainee's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(C) Is not a private practice owned by a licensed marriage and family therapist, a licensed psychologist, a licensed clinical social worker, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(2) Experience may be gained by the trainee solely as part of the position for which the trainee volunteers or is employed.

(e) (1) An intern may be credited with supervised experience completed in any setting that meets both of the following:

(A) Lawfully and regularly provides mental health counseling or psychotherapy.

(B) Provides oversight to ensure that the intern's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4980.02.

(2) An applicant shall not be employed or volunteer in a private practice, as defined in subparagraph (C) of paragraph (1) of subdivision (d), until registered as an intern.

(3) While an intern may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to interns.

(4) Except for periods of time during a supervisor's vacation or sick leave, an intern who is employed or volunteering in private practice shall be under the direct supervision of a licensee enumerated in subdivision (f) of Section 4980.40. The supervising licensee shall either be employed by and practice at the same site as the intern's employer, or shall be an owner or shareholder of the private practice. Alternative supervision may be arranged during a supervisor's vacation or sick leave if the supervision meets the requirements of this section.

(5) Experience may be gained by the intern solely as part of the position for which the intern volunteers or is employed.

(f) Except as provided in subdivision (g), all persons shall register with the board as an intern in order to be credited for postdegree hours of supervised experience gained toward licensure.

(g) Except when employed in a private practice setting, all postdegree hours of experience shall be credited toward licensure so long as the applicant applies for the intern registration within 90 days of the granting of the qualifying master's or doctor's degree and is thereafter granted the intern registration by the board.

(h) Trainees, interns, and applicants shall not receive any remuneration from patients or clients, and shall only be paid by their employers.

(i) Trainees, interns, and applicants shall only perform services at the place where their employers regularly conduct business, which may include performing services at other locations, so long as the services are performed under the direction and control of their employer and supervisor, and in compliance with the laws and regulations pertaining to supervision. Trainees and interns shall have no proprietary interest in the employer's business.

(j) Trainees, interns, or applicants who provide volunteered services or other services, and who receive no more than a total, from all work settings, of five hundred dollars (\$500) per month as reimbursement for expenses actually incurred by those trainees, interns, or applicants for services rendered in any lawful work setting other than a private practice shall be considered an employee and not an independent contractor. The board may audit applicants who receive reimbursement for expenses, and the applicants shall have the burden of demonstrating that the payments received were for reimbursement of expenses actually incurred.

(k) Each educational institution preparing applicants for licensure pursuant to this chapter shall consider requiring, and shall encourage, its students to undergo individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Each supervisor shall consider, advise, and encourage his or her interns and trainees regarding the advisability of undertaking individual, marital or conjoint, family, or group counseling or psychotherapy, as appropriate. Insofar as it is deemed appropriate and is desired by the applicant, the educational institution and supervisors are encouraged to assist the applicant in locating that counseling or psychotherapy at a reasonable cost.

§4996.23 SUPERVISED POST-MASTER'S EXPERIENCE CRITERIA EFFECTIVE JANUARY 1, 2002 (ASWs)

The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

(a) All persons registered with the board on and after January 1, 2002, shall have at least 3,200 hours of post-master's degree supervised experience providing clinical social work services as

permitted by Section 4996.9. At least 1,700 hours shall be gained under the supervision of a licensed clinical social worker. The remaining required supervised experience may be gained under the supervision of a licensed mental health professional acceptable to the board as defined by a regulation adopted by the board. This experience shall consist of the following:

(1) A minimum of 2,000 hours in clinical psychosocial diagnosis, assessment, and treatment, including psychotherapy or counseling.

(2) A maximum of 1,200 hours in client-centered advocacy, consultation, evaluation, and research.

(3) Of the 2,000 clinical hours required in paragraph (1), no less than 750 hours shall be face-to-face individual or group psychotherapy provided to clients in the context of clinical social work services.

(4) A minimum of two years of supervised experience is required to be obtained over a period of not less than 104 weeks and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.

(5) Experience shall not be credited for more than 40 hours in any week.

(b) "Supervision" means responsibility for, and control of, the quality of clinical social work services being provided. Consultation or peer discussion shall not be considered to be supervision.

(c) (1) Prior to the commencement of supervision, a supervisor shall comply with all requirements enumerated in Section 1870 of Title 16 of the California Code of Regulations and shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" form.

(2) Supervised experience shall include at least one hour of direct supervisor contact for a minimum of 104 weeks. In addition, an associate shall receive an average of at least one hour of direct supervisor contact for every week in which more than 10 hours of face-to-face psychotherapy is performed in each setting experience is gained. No more than five hours of supervision, whether individual or group, shall be credited during any single week. Of the 104 weeks of required supervision, 52 weeks shall be individual supervision, and of the 52 weeks of required individual supervision, not less than 13 weeks shall be supervised by a licensed clinical social worker. For purposes of this section, "one hour of direct supervisor contact" means one hour of face-to-face contact on an individual basis or two hours of face-to-face contact in a group of not more than eight persons receiving supervision.

(3) An associate clinical social worker working in a governmental entity, a school, college or university, or an institution both nonprofit and charitable may obtain up to 30 hours of the required weekly direct supervisor contact via two-way, real time videoconferencing. The supervisor is responsible for ensuring that client confidentiality is upheld.

(d) The supervisor and the associate shall develop a supervisory plan that describes the goals and objectives of supervision. These goals shall include the ongoing assessment of strengths and limitations and the assurance of practice in accordance with the laws and regulations. The associate shall submit to the board the initial original supervisory plan upon application for licensure.

(e) Experience shall only be gained in a setting that meets both of the following:

(1) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.

(2) Provides oversight to ensure that the associate's work at the setting meets the experience and supervision requirements set forth in this chapter and is within the scope of practice for the profession as defined in Section 4996.9.

(f) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.

(g) Employment in a private practice as defined in subdivision (h) shall not commence until the applicant has been registered as an associate clinical social worker.

(h) A private practice setting is a setting that is owned by a licensed clinical social worker, a licensed marriage and family therapist, a licensed psychologist, a licensed physician and surgeon, or a professional corporation of any of those licensed professions.

(i) If volunteering, the associate shall provide the board with a letter from his or her employer verifying his or her voluntary status upon application for licensure.

(j) If employed, the associate shall provide the board with copies of his or her W-2 tax forms for each year of experience claimed upon application for licensure.

(k) While an associate may be either a paid employee or volunteer, employers are encouraged to provide fair remuneration to associates.

(l) Associates shall not do the following:

(1) Receive any remuneration from patients or clients and shall only be paid by his or her employer.

(2) Have any proprietary interest in the employer's business.

(m) An associate, whether employed or volunteering, may obtain supervision from a person not employed by the associate's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the associate's social work services.

(n) Notwithstanding any other provision of law, associates and applicants for examination shall receive a minimum of one hour of supervision per week for each setting in which he or she is working.

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To: Board Members **Date:** May 14, 2007

From: Christy Berger **Telephone:** (916) 574-7847
Board of Behavioral Sciences

Subject: **Amend CCR Section 1887.2 Regarding Exceptions to Continuing Education Requirements**

Background

Section 1887.2 of Title 16, Division 18 of the California Code of Regulations sets forth continuing education (CE) exception criteria for Marriage and Family Therapist and Licensed Clinical Social Worker license renewals.

Subdivision (a) of the regulation sets forth the CE exception for licensees in their initial license renewal period (18 hours of CE, instead of 36 hours), while subdivision (b) sets forth the CE exception for licensees whose licenses are in inactive status.

However, in reviewing the language under subdivision (c), staff had originally recommended the following changes in order to clarify and better facilitate the request for exception from the CE requirement process:

- Adding language requiring that a request for exception be submitted, on a form prescribed by the board a minimum of 60 days prior to the expiration date of the license
- Adding language stating that, if approved by the board, a request for exception shall be valid for only one renewal period
- Consistent with the minimum timeframes under subdivisions (c)(1) and (c)(2), adding language under (c)(3) requiring that a licensee or immediate family member had a disability for at least one year in order to be granted an exception
- Adding additional language after the “disability” definition under subdivision (c)(3) that defines “major life activities” and “substantially limiting impairment”
- Adding language requiring an explanation of how the disability substantially limits one or more major life activities
- Adding additional clarifying language

In addition, staff drafted a request for continuing education exception form (attached) in order to better facilitate the request process.

On January 10, 2007, the Consumer Protection Committee reviewed the proposed regulatory language and request for exception form and recommended that these items go forward to the Board for review and approval.

On February 15, 2007, the Board reviewed the proposed language and form. Staff had originally recommended that the timeframe for a disability be established at one year for consistency with subdivisions (c)(1) [exceptions pertaining to military service] and (c)(2) [exceptions pertaining to residing in another country]. However, the Board voted to modify the minimum timeframe for a disability to “at least nine (9) months.”

Staff asked the Consumer Protection Committee to further evaluate all minimum timeframes in order to determine whether consistency between the subdivisions (with respect to minimum timeframes) would be more appropriate.

Recommendation

The Committee recommended that the Board approve the modification to the proposed regulatory language, setting the minimum time frame for disability at one year, so that staff may proceed with the regulatory change process.

Attachments

- A. Proposed Language (with modification)
- B. Request for Continuing Education Exception Form

BOARD OF BEHAVIORAL SCIENCES
PROPOSED LANGUAGE [with modification under (c)(3)]
Title 16, California Code of Regulations

Amend §1887.2. as follows:

§1887.2. Exceptions from Continuing Education Requirements

(a) An initial licensee shall complete at least eighteen (18) hours of continuing education, of which no more than six (6) hours may be earned through self-study courses, prior to his or her first license renewal.

(b) A licensee is exempt from the continuing education requirement if ~~their~~ his or her license is inactive pursuant to Sections 4984.8 and 4997 of the Code.

(c) A licensee may submit a ~~written~~ request for exception from the continuing education requirement, on a form prescribed by the board, for any of the reasons listed below. The request must be submitted to the board at least sixty (60) days prior to the expiration date of the license. The board will notify the licensee, within thirty (30) working days after receipt of the request for exception, whether the exception was granted. If the request for exception is denied, the licensee is responsible for completing the full amount of continuing education required for license renewal. If the request for exception is approved, it shall be valid for one renewal period. The board shall grant the exception if the licensee can provide evidence, satisfactory to the board, that:

(1) For at least one year during the licensee's previous license renewal period the licensee was absent from California due to military service;

(2) For at least one year during the licensee's previous license renewal period the licensee resided in another country; or

(3) ~~During~~ For at least one year nine months during the licensee's previous license renewal period, the licensee or an immediate family ~~member, member, including a domestic partner,~~ where the licensee ~~has is~~ is the primary responsibility for the care of ~~caregiver for~~ that family member, ~~was suffering from or suffered~~ had a disability. A disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, sitting, standing, lifting, reaching, sleeping, thinking, concentrating and interacting with others. An impairment is substantially limiting if it prohibits or significantly restricts an individual's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity. The disability must be verified by a licensed physician or psychologist with special expertise in the area of the disability. Verification of the disability must include:

(A) the nature and extent of the disability;

(B) an explanation of how the disability substantially limits one or more major life activities;

~~(B)~~ (C) an explanation of how the disability would hinder the licensee from completing the continuing education requirement given that such courses can be completed in the classroom, online or via home study; and

~~(C)~~ (D) the name, title, address, telephone number, professional license or certification number, and original signature of the licensed physician or psychologist verifying the disability.

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STATE OF CALIFORNIA
**REQUEST FOR CONTINUING EDUCATION
 EXCEPTION**

1800 37A-208 (NEW. 8/06)

BOARD OF BEHAVIORAL SCIENCES
 1625 NORTH MARKET BLVD., SUITE S200, SACRAMENTO, CA 95834
 TELEPHONE: (916) 574-7830 TDD: (916) 322-1700
 WEB SITE ADDRESS: <http://www.bbs.ca.gov>

For Office Use Only:

Date Received _____
 Date Approved _____ Denied _____
 Date of Audit (if applicable) _____
 Enforcement Approval Yes No Date: _____

READ REVERSE SIDE BEFORE COMPLETING THIS FORM
Any unanswered item will cause this request to be incomplete. Incomplete requests will not be processed.

(Please type or print clearly in ink)

Part 1 To be completed by applicant/licensee

*NAME: Last		First	Middle	
BUSINESS TELEPHONE:			RESIDENCE TELEPHONE:	
ADDRESS OF RECORD: Number and Street		City	State	Zip Code
SOCIAL SECURITY NUMBER:	LICENSE NUMBER:	RENEWAL PERIOD REQUESTING EXCEPTION FOR: _____ / _____ / _____ TO _____ / _____ / _____		

REASON FOR EXCEPTION: (Check one box only)

Health (Complete Part 2) **Health-Family** (Complete Part 2) **Military** (submit proof) **Out of Country** (submit proof)

Part 2 To be completed by attending physician/psychologist

Provide a description of the physical or mental disability and an explanation as to how the disability interferes with one or more major life activities, including the licensee's ability to complete 36 hours of Continuing Education through classroom/seminar attendance, home study, Internet courses over a two-year period. Please attach additional sheets, if necessary.

Approximate date disability began: _____ disability is Temporary Permanent
 If temporary, approximate date licensee will be able to continue his/her Continuing Education: _____

Is licensee limited in working in his/her licensed capacity? Yes No

If yes, please explain limitations: _____

Attending Physician's/Psychologist's Name	License Number	Business Telephone	
Attending Physician's/Psychologist's Address	City	State	Zip Code

I declare under penalty of perjury under the laws of the State of California that I have read and understand the foregoing and that I meet all of the criteria stated herein and the information submitted on this form is true and correct. Providing false information or omitting required information are grounds for disciplinary action.

Date

Signature of Licensee

Date

Signature of Physician/Psychologist

* Business and Professions Code Sections 4982(b) and 4992.3(b) gives the board the right to refuse issuance of any registration or license, or to suspend or revoke the registration or license of any registrant or licensee if the applicant secures the registration or license by fraud, deceit, or misrepresentation on any application for registration or licensure submitted to the board.

(OVER)

EXCEPTIONS FROM THE CE REQUIREMENT

Section 1887.2(c) of the California Code of Regulations outlines three reasons for which the board will grant exception and the board's procedure for processing these requests.

Exception Regulation

(c) A licensee may submit a ~~written~~ request for exception from the continuing education requirement, on a form prescribed by the board, for any of the reasons listed below. The request must be submitted to the board at least sixty (60) days prior to the expiration date of the license. The board will notify the licensee, within thirty (30) working days after receipt of the request for exception, whether the exception was granted. If the request for exception is denied, the licensee is responsible for completing the full amount of continuing education required for license renewal. If the request for exception is approved, it shall be valid for one renewal period. The board shall grant the exception if the licensee can provide evidence, satisfactory to the board, that:

- (1) For at least one year during the licensee's previous license renewal period the licensee was absent from California due to military service;
- (2) For at least one year during the licensee's previous license renewal period the licensee resided in another country; or
- (3) ~~During~~ For at least one year during the licensee's previous license renewal period, the licensee or an immediate family member, including a domestic partner, where the licensee ~~has is~~ is the primary responsibility for the care of caregiver for that family member, was suffering from or suffered had a disability. A disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual. Major life activities include, but are not limited to, caring for oneself, performing manual tasks, waling, seeing, hearing, speaking, breathing, learning, working, sitting, standing, lifting, reaching, sleeping, thinking, concentrating, and interacting with others. An impairment is substantially limiting if it prohibits or significantly restricts an individual's ability to perform a major life activity as compared to the ability of the average person in the general population to perform the same activity. The disability must be verified by a licensed physician or psychologist with special expertise in the area of the disability. Verification of the disability must include:
 - (A) the nature and extent of the disability
 - (B) an explanation of how the disability substantially limits one or more major life activities;
 - ~~(B)~~ (C) an explanation of how the disability would hinder the licensee from completing the continuing education requirement given that such courses can be completed in the classroom, on-line, or via home study; and
 - ~~(C)~~ (D) the name, title, address, telephone number, professional license or certification number, and original signature of the licensed physician or psychologist verifying the disability;

How to Request Exception

To request an exception, complete the form on the reverse side and submit to the board, along with sufficient proof. The board will accept any documentation establishing the validity of your request, including military orders that demonstrate service outside California, a passport or visa showing the dates you resided out-of-country, a doctor's note, etc. **Please remember that the documentation must supply all of the information required by Section 1887.2(c) above.** After the board's review, you will be notified whether your request was granted.

Exceptions Cannot be Granted Before the Fact

The board can only grant exceptions when provided with proof that you have met the minimum criteria outlined in Section 1887.2(c). You may request exception after the situation has occurred, or during the situation as long as you have met the minimum criteria. *For example, if your license expiration date is July 31, 2006, and you are going to live out of the country from May 2005 through November 2006, you can submit your request for exception due to living out of the country anytime after May 2006.*

Renewal Application

Please send in your request for exception prior to submitting your renewal application. Courtesy renewal applications are mailed out 90 days prior to the expiration date. It takes 30 business days to process an application for exception. **Do not submit your renewal application until you have received a written decision regarding your request for exception. If your request is denied, you will be required to complete the mandatory coursework and hours of continuing education prior to renewing your license in active status.**

If you have any questions, please contact the board's CE program at (916) 574-7830.

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Board Members

Date: May 14, 2007

From: Christy Berger
Board of Behavioral Sciences

Telephone: (916) 574-7847

Subject: **Amend CCR Sections 1887, 1887.2, 1887.3, and 1887.7 Minor Clean-Up of CE Regulations**

Background

In an effort to meet the Board's strategic planning objectives, staff has reviewed the continuing education regulations and has recommended minor clean-up amendments.

Recommendation

On April 11, 2007, the Consumer Protection Committee recommended that the Board approve the proposed language.

Attachments

Proposed Language for CE Regulations

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**BOARD OF BEHAVIORAL SCIENCES
PROPOSED LANGUAGE
Title 16, California Code of Regulations**

§1887. DEFINITIONS

As used in this article:

(a) A continuing education "course" means a form of systematic learning at least one hour in length including, but not limited to, academic studies, extension studies, lectures, conferences, seminars, workshops, viewing of videotapes or film instruction, viewing or participating in other audiovisual activities including interactive video instruction and activities electronically transmitted from another location which has been verified and approved by the continuing education provider, and self-study courses.

(b) A "self-study course" means a form of systematic learning performed at a licensee's residence, office, or other private location including, but not limited to, listening to audiotapes or participating in self-assessment testing (open-book tests that are completed by the member, submitted to the provider, graded, and returned to the member with correct answers and an explanation of why the answer chosen by the provider was the correct answer).

(c) A continuing education "provider" means an accredited or approved school, or an association, health facility, governmental entity, educational institution, individual, or other organization that offers continuing education courses and meets the requirements contained in this article.

(d) An "initial renewal period" means the period which spans from issuance of an initial license to the license's first expiration date.

~~(d)~~(e) A "renewal period" means the two-year period which ~~spans from~~ a license's expiration date to the license's next expiration date.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code.
Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

§1887.2. EXCEPTIONS FROM CONTINUING EDUCATION REQUIREMENTS

(a) ~~An initial~~ A licensee in his or her initial renewal period shall complete at least eighteen (18) hours of continuing education, of which no more than six (6) hours may be earned through self-study courses, prior to his or her first license renewal.

(b) A licensee is exempt from the continuing education requirement if their license is inactive pursuant to Sections 4984.8 and 4997 of the Code.

(c) A licensee may submit a written request for exception from the continuing education requirement for any of the reasons listed below. The board will notify the licensee, within thirty (30) working days after receipt of the request for exception, whether the exception was granted. If the request for exception is denied, the licensee is responsible for completing the full amount of continuing education required for license renewal. The board shall grant the exception if the licensee can provide evidence, satisfactory to the board, that:...

...

Note: Authority Cited: Sections 4980.54, 4980.60, 4990.14, and 4996.22, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

§1887.3. CONTINUING EDUCATION COURSE REQUIREMENTS

(a) ~~A~~ During each renewal period, a licensee shall accrue at least thirty-six (36) hours of continuing education ~~courses~~ coursework as defined in Section 1887.4. A licensee may accrue no more than twelve (12) hours of continuing education earned through self-study courses during ~~a single~~ each renewal period.

(b) Pursuant to Section 29 of the Code, a licensee who started graduate study prior to January 1, 1986, shall take a continuing education course in the detection and treatment of alcohol and other chemical substance dependency during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 29 of the Code. This is a one-time requirement for those licensees specified above.

Equivalent alcohol and other chemical substance dependency courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

(c) Pursuant to Section 32 of the Code, a licensee shall take a continuing education course in the characteristics and methods of assessment and treatment of people living with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 32 of the Code. This is a one-time requirement for all licensees.

Equivalent HIV and AIDS courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

(d) Any person renewing his or her license on and after January 1, 2004 shall ~~have completed~~ not less than complete a minimum of six (6) hours of continuing education in the subject of law and ethics for each renewal period. The six (6) hours shall be considered part of the thirty-six (36) hour continuing education requirement.

(e) If a licensee teaches a course, the licensee may claim credit for the course only one time during a single renewal period, receiving the same amount of hours of continuing education credit as a licensee who attended the course.

(f) A licensee may not claim the same course more than once during a single renewal period for hours of continuing education credit.

(g) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing education requirement.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code.
Reference: Sections 29, 32, 4980.54 and 4996.22, Business and Professions Code.

§1887.7. BOARD-APPROVED PROVIDERS

(a) A continuing education provider must meet the board's course content and instructor qualifications criteria, as provided under this article, to qualify to become a board-approved provider.

(b) A continuing education provider shall submit a completed Continuing Education Provider Application (form no. 1800 37A-633, ~~new 5/97~~ revised 12/05), hereby incorporated by reference, remit the appropriate fees, and obtain a continuing education provider number from the board to become a board-approved provider.

(c) A provider approval issued under this section shall expire on the last day of the twenty-fourth month after the approval issue date. To renew an unexpired provider approval, the provider shall, on or before the expiration date of the approval, pay the two-year renewal fee set forth in Section 1816 of these regulations.

A provider approval which is not renewed by the expiration date may not be renewed, restored, reinstated, or reissued thereafter, but the provider may apply for a new approval.

(d) Board-approved provider status is non-transferable.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code.
Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

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1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Board Members **Date:** May 16, 2007

From: Christy Berger **Telephone:** (916) 574-7847
Legislation Analyst

Subject: **Amend CCR Section 1870 Regarding Two-Year Practice Requirement for Supervisors of ASWs**

Background

Section 1870 of Title 16, Division 18 of the California Code of Regulations sets forth the requirements for supervisors of Associate Clinical Social Workers (ASW). Section 1833.1 sets forth the requirements for supervisors of Marriage and Family Therapist Interns and Trainees (attached for comparison).

Currently, Section 1833.1 requires that supervisors of MFT Interns and Trainees be licensed for at least two years prior to commencing any supervision; Section 1870 does not have a comparable requirement for supervisors of ASWs.

In order to provide consistency between the two regulations, staff is recommending that language be added under Section 1870 which would require that supervisors of ASWs also be licensed for at least two years prior to commencing any supervision. Some technical changes are also proposed for clarity.

Recommendation

On April 11, 2007, the Consumer Protection Committee recommended that the Board approve the proposed regulatory language.

Attachments

- A. Proposed Language for Section 1870
- B. Section 1833.1

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**BOARD OF BEHAVIORAL SCIENCES
PROPOSED LANGUAGE***

Amend Section 1870 of Division 18 of Title 16 of the California Code of Regulations to read as follows:

1870. REQUIREMENTS FOR ASSOCIATE CLINICAL SOCIAL WORKER SUPERVISORS

Any person supervising an associate clinical social worker registered with the board (hereinafter called "supervisor") within California shall comply with the requirements set forth below.

(a) Prior to the commencement of supervision, the supervisor shall sign under penalty of perjury the "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (**revised 12/05**), which requires that:

(1) The supervisor possesses and will maintain a current valid California license as a licensed clinical social worker or a licensed mental health professional acceptable to the Board ~~as specified in Section 1874.~~ defined as follows:

(A) Psychologist

(B) Marriage and family therapist

(C) Physician certified in psychiatry by the American Board of Psychiatry and Neurology.

(2) The supervisor has been so licensed in California, and or in any other state, for a total of at least two (2) years prior to commencing any supervision.

~~(2)~~ (3) The supervisor has and will maintain a ~~current~~ license in good standing and will immediately notify the associate of any disciplinary action, including revocation, suspension (even if stayed), probation terms, inactive license, or lapse in licensure, that affects the supervisor's ability or right to supervise.

~~(3)~~ (4) The supervisor has practiced psychotherapy as part of his/her clinical experience for at least two (2) years within the last five (5) years immediately preceding supervision.

~~(4)~~ (5) The supervisor has had sufficient experience, training and education in the area of clinical supervision to competently supervise associates. Effective January 1, 2001, supervisors who are licensed by the board shall have:

(A) Effective January 1, 2001, persons licensed by the board who provide supervision shall have a minimum of fifteen (15) contact hours in supervision training obtained from a state agency or approved continuing education provider. This training may apply towards the approved continuing education requirements set forth in Sections 4980.54 and 4996.22 of the Code. The content of such training shall include, but not be limited to:

(i) Familiarity with supervision literature through reading assignments specified by course instructors;

*A regulatory filing is in already in process to make other modifications to this section. The proposed language contained herein is based on the modified language for clarity.

- (ii) Facilitation of therapist-client and supervisor-therapist relationships;
 - (iii) Evaluation and identification of problems in therapist-client and supervisor-therapist relationships;
 - (iv) Structuring supervision sessions, problem solving ability, and implementing supervisor interventions within a range of supervisory modalities including live, videotape, audiotape, and case report methods;
 - (v) Knowledge of contextual variables such as culture, gender, ethnicity, and economic issues; and
 - (vi) The practice of clinical social work, including the mandated reporting laws, and knowledge of ethical and legal issues.
- ~~(5)-(6)~~ The supervisor knows and understands the laws and regulations pertaining to both supervision of associates and the experience required for licensure as a clinical social worker.
- ~~(6)-(7)~~ The supervisor shall ensure that the extent, kind and quality of clinical social work performed is consistent with the training and experience of the person being supervised and shall review client/patient records, monitor and evaluate assessment and treatment decisions of the associate clinical social worker, and monitor and evaluate the ability of the associate to provide services at the site(s) where he or she will be practicing and to the particular clientele being served, and ensure compliance with all laws and regulations governing the practice of clinical social work.
- ~~(7)-(8)~~ Effective January 1, 1999, the supervisor and the associate shall develop the "Supervisory Plan" as described in Section 1870.1. of the California Code of Regulations. This original signed plan shall be submitted to the board upon application for licensure.
- (8) The supervisor shall provide the associate with the original, signed "Responsibility Statement for Supervisors of an Associate Clinical Social Worker" (revised 12-05), prior to commencement of any supervision. The associate shall provide the board with the original signed form for each supervisor upon application for licensure.
- ~~(9)-(10)~~ A supervisor shall give at least one (1) week's written notice to an associate of the supervisor's intent not to certify any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.
- ~~(10)-(11)~~ Effective January 1, 1999, the supervisor shall complete an assessment of the ongoing strengths and limitations of the associate. The assessments shall be completed at least once a year and at the completion or termination of supervision. A copy of all assessments shall be provided to the associate by the supervisor.
- ~~(11)-(12)~~ Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

(b) The board shall not deny hours of experience gained toward licensure by any associate due to the failure of his or her supervisor to complete the training requirements specified in subparagraph (a)(4)(A).

Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: Sections 4980.54, ~~4996.21~~, 4996.22, and 4996.23, Business and Professions Code.

Repeal Section 1874:

~~**§1874. DEFINITION OF ACCEPTABLE MENTAL HEALTH PROFESSIONALS**~~

~~For purposes of Sections 4996.20(b) and 4996.21(a), a licensed mental health professional acceptable to the board is one who, at the time of supervision, has possessed for at least two years a valid license as a psychologist, marriage and family therapist or physician certified in psychiatry by the American Board of Psychiatry and Neurology.~~

~~Note: Authority cited: Section 4990.14, Business and Professions Code. Reference: Sections 4996.20 and 4996.21, Business and Professions Code.~~

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**RELATED LAWS
REQUIREMENTS FOR SUPERVISORS OF MFT TRAINEES OR INTERNS**

§1833.1

(a) Any person supervising an intern or trainee (hereinafter "supervisor") within California shall comply with the requirements set forth below and shall, prior to the commencement of such supervision, sign under penalty of perjury the "Responsibility Statement for Supervisors of a Marriage and Family Therapist Trainee or Intern" revised 2-05 requiring that:

(1) The supervisor possess and maintains a current valid California license as either a marriage and family therapist, licensed clinical social worker, licensed psychologist, or physician who is certified in psychiatry as specified in Section 4980.40 (f) of the Code **and has been so licensed in California for at least two years prior to commencing any supervision; or**

(A) Provides supervision only to trainees at an academic institution that offers a qualifying degree program as specified in Section 4980.40 (a) of the Code; and

(B) Has been licensed in California as specified in Section 4980.40 (f) of the Code, and in any other state, for a total of at least two years prior to commencing any supervision.

(2) If such supervisor is not licensed as a marriage and family therapist, he or she shall have sufficient experience, training, and education in marriage and family therapy to competently practice marriage and family therapy in California.

(3) The supervisor keeps himself or herself informed of developments in marriage and family therapy and in California law governing the practice of marriage and family therapy.

(4) The supervisor has and maintains a current license in good standing and will immediately notify the intern or trainee of any disciplinary action, including revocation or suspension, even if stayed, probation terms, inactive license status, or lapse in licensure, that affects the supervisor's ability or right to supervise.

(5) The supervisor has practiced psychotherapy for at least two (2) years within the five (5) year period immediately preceding any supervision and has averaged at least five (5) patient/client contact hours per week.

(6) The supervisor has had sufficient experience, training, and education in the area of clinical supervision to competently supervise trainees or interns.

(A) Effective January 1, 2000, supervisors who are licensed by the board shall complete a minimum of six (6) hours of supervision training or coursework every two years. This training or coursework may apply towards the continuing education requirements set forth in Sections 4980.54 and 4996.22 of the Code.

(B) Supervisors who are licensed by the board who have completed a minimum of six (6) hours of supervision training or coursework between January 1, 1997, and December 31, 1999, may apply that training towards the requirement described in subsection (A).

(C) Supervisors who are licensed by the board who commence supervision on and after January 1, 2000, and have not met requirements of subsection (A), shall complete a minimum of six (6) hours of supervision training or coursework within sixty (60) days of commencement of supervision.

(7) The supervisor knows and understands the laws and regulations pertaining to both the supervision of trainees and interns and the experience required for licensure as a marriage and family therapist.

(8) The supervisor shall ensure that the extent, kind, and quality of counseling performed is consistent with the education, training, and experience of the intern or trainee.

(9) The supervisor shall monitor and evaluate the extent, kind, and quality of counseling performed by the intern or trainee by direct observation, review of audio or video tapes of therapy, review of progress and process notes and other treatment records, or by any other means deemed appropriate by the supervisor.

(10) The supervisor shall address with the intern or trainee the manner in which emergencies will be handled.

(b) Each supervisor shall provide the intern or trainee with the original signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 2-05 prior to the commencement of any counseling or supervision. The intern shall provide the board with his or her signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 2-05 from each supervisor upon application for licensure. The trainee shall provide the board with his or her signed "Responsibility Statement for Supervisors of a Marriage and Family Therapist Intern or Trainee" revised 2-05 from each supervisor upon application for internship.

(c) A supervisor shall give at least one (1) week's written notice to an intern or trainee of the supervisor's intent not to certify any further hours of experience for such person. A supervisor who has not provided such notice shall sign for hours of experience obtained in good faith where such supervisor actually provided the required supervision.

(d) The supervisor shall obtain from any intern or trainee for which supervision will be provided, the name, address, and telephone number of the intern's or trainee's most recent supervisor and employer.

(e) In any setting that is not a private practice, a supervisor shall evaluate the site(s) where an intern or trainee will be gaining hours of experience toward licensure and shall determine that: (1) the site(s) provides experience which is within the scope of marriage and family therapy; and (2) the experience is in compliance with the requirements set forth in this section.

(f) Upon written request of the board, the supervisor shall provide to the board any documentation which verifies the supervisor's compliance with the requirements set forth in this section.

(g) The supervisor responsibility statement required by this section shall be used for supervisorial relationships commencing on or after 1-1-98.

(h) The board shall not deny hours of experience gained towards licensure by any supervisee due to failure of his or her supervisor to complete the training or coursework requirements in subsection (a) (6).

BOARD OF BEHAVIORAL SCIENCES
BREAKDOWN OF ENFORCEMENT COMPLAINT ACTIVITY BY LICENSEE POPULATION
2006 - 2007
FISCAL YEAR ⁽¹⁾

	OPENED	COMPLAINTS CLOSED	PENDING	Licenses In Effect (2)	% of Licenses to Pending Complaints
UNLICENSED	91	79	35	n/a	n/a
APPLICANTS	297	301	37	n/a	n/a
CE PROVIDERS	3	3	2	2328	0.09
DUAL LICENSEES (3)	15	10	10	n/a	n/a
DUAL W/BOP (3)	12	11	8	n/a	n/a
ASW	39	37	32	7140	0.45
LCSW	148	99	111	16648	0.67
IMF	80	72	66	10260	0.64
MFT	351	228	264	28833	0.92
LEP	5	4	3	1736	0.17
TOTAL	1041	844	568	66945	0.85

- Note:
- (1) Activity is from July 1, 2006 through March 31, 2007. Pending as of March 31, 2007.
 - (2) Licenses in effect as of March 1, 2007. Does not include cancelled, revoked, or voluntary surrender of licenses.
 - (3) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

BOARD OF BEHAVIORAL SCIENCES
BREAKDOWN OF ENFORCEMENT COMPLAINT CLOSURES BY TYPE
2006 - 2007
FISCAL YEAR ⁽¹⁾

	Unactionable (2)	Mediated (3)	Citation (4)	Violation (5)	Inv. (6)	District Attorney (7)	Rfrd Disp. (8)	Other (9)	TOTAL
UNLICENSED	68	0	1	6	1	0	0	3	79
APPLICANTS	0	0	0	294	0	0	3	4	301
CE PROVIDER	2	0	0	1	0	0	0	0	3
DUAL LICENSEES (10)	6	0	4	0	0	0	0	0	10
DUAL W/BOP (10)	7	0	2	1	0	0	1	0	11
ASW	20	0	0	7	1	0	3	6	37
LCSW	60	0	20	8	4	0	4	3	99
IMF	30	0	2	27	5	0	4	4	72
MFT	133	0	50	16	10	0	7	12	228
LEP	1	0	1	0	0	0	2	0	4
TOTAL	327	0	80	360	21	0	24	32	844

39%

61% Actionable

Note:

- (1) Closure activity is from July 1, 2006 through March 31, 2007.
- (2) Unactionable: Complaints which after review are closed no violation, insufficient evidence, no jurisdiction etc.
- (3) Mediated: Complaints which have no violation, but where a resolution was reached between parties.
- (4) Citation: Complaints in which after review, violations have been found and the complaint was closed upon the issuance of a citation.
- (5) Violation: Complaints which after review, violations have been found and were closed upon the issuance of a cease and desist or warning letter.
- (6) Inv.: Complaints which were closed after an investigation was conducted.
- (7) District Attorney: Complaints which, after review, a determination is made that the matter should be referred to the DA's office.
- (8) Rfrd Disp: Complaints which are referred directly to the Attorney General's office for disciplinary action (no investigation was required).
- (9) Other: Complaints closed in any manner which does not fit within one of the other categories.
- (10) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

BOARD OF BEHAVIORAL SCIENCES
CATEGORY OF PENDING COMPLAINTS
As of March 31, 2007

AGENCY CATEGORY	CE	UL	AP	DL	DP	AS	LC	IM	MF	LEP	TOTAL
Fraud	0	0	1	0	0	0	1	1	1	0	4
Fraudulent License	0	0	1	0	0	0	0	0	0	0	1
Insurance, Medi-Cal	0	0	0	0	0	0	0	0	0	0	0
Non-Jurisdictional	0	1	0	0	0	0	1	1	2	0	5
Custody	0	1	0	0	2	0	8	0	25	1	37
Fee Disputes	0	0	0	0	0	0	1	0	6	0	7
Exempt from licensure	0	4	0	1	0	2	2	1	3	0	13
Negligence	0	0	0	0	0	0	1	0	4	0	5
Beyond Scope	0	0	0	0	0	0	2	1	2	0	5
Dual Relationship	0	0	0	0	0	0	0	0	1	0	1
Abandonment	0	0	0	1	0	0	1	1	2	0	5
Improper Supervision	0	0	0	0	0	0	4	1	3	0	8
Misdiagnosis	0	0	0	0	0	0	2	0	1	0	3
Failure/Report Abuse	0	0	0	0	0	1	1	0	2	0	4
Aiding & Abetting	0	0	0	0	0	0	0	0	4	0	4
Other	0	0	0	0	0	0	0	0	1	0	1
Mental Illness	0	0	0	0	0	1	1	0	1	0	3
Self Use Drugs/Alcohol	0	0	0	0	0	6	1	5	3	1	16
Conviction of Crime	0	0	1	0	0	19	4	25	20	1	70
Unprofessional Conduct	1	1	0	3	1	0	24	15	70	0	115
Sexual Misconduct	0	0	0	1	0	1	0	2	13	0	17
Breach of Confidentiality	0	0	0	0	0	0	4	0	12	0	16
Emotional/Phys. Harm	0	0	0	0	0	0	1	0	2	0	3
Advertising / Misrepresentation	0	1	0	0	0	0	0	5	0	0	6
Unlicensed Practice	1	27	0	0	0	0	1	4	0	0	33
Repressed Memory	0	0	0	0	0	0	0	0	0	0	0
Third Party Complaint	0	0	0	0	0	2	6	4	11	0	23
Unsafe/Sanitary Conditions	0	0	0	0	0	0	0	0	0	0	0
Discipline by Another State	0	0	2	0	0	0	0	0	1	0	3
Criminal Convictions - Renewal Reported	0	0	0	0	1	0	3	0	4	0	8
Non Compliance with CE Audit	0	0	0	4	4	0	41	0	66	0	115
Applicant Referral for Criminal Conviction	0	0	32	0	0	0	0	0	0	0	32
Subvert Licensing Exam	0	0	0	0	0	0	0	0	0	0	0
Unregistered Referral Service	0	0	0	0	0	0	0	0	0	0	0
Failure to Provide Records	0	0	0	0	0	0	1	0	4	0	5
TOTAL	2	35	37	10	8	32	111	66	264	3	568

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

BOARD OF BEHAVIORAL SCIENCES
BREAKDOWN OF ENFORCEMENT ACTIVITY - CASES AT THE AG'S OFFICE
BY LICENSEE POPULATION
2006 - 2007 FISCAL YEAR ⁽¹⁾

	PENDING	Licenses In Effect (2)	% of Licenses to Pending Cases
UNLICENSED	0	n/a	n/a
APPLICANTS	7	n/a	n/a
SUSEQUENT DISP. (3)	1	n/a	n/a
DUAL LICENSEES (4)	1	n/a	n/a
DUAL W/BOP (4)	2	n/a	n/a
CE PROVIDERS	0	2328	0.00
ASW	4	7140	0.06
LCSW	7	16648	0.04
IMF	10	10260	0.10
MFT	26	28833	0.09
LEP	1	1736	0.06
TOTAL	59	66945	0.09

- Note:
- (1) Pending as of March 31, 2007.
 - (2) Licenses in effect as of March 1, 2007. Does not include cancelled, revoked, or voluntary surrender of licenses.
 - (3) Subsequent Discipline for violation of probation.
 - (4) Dual licensees are those that hold dual licenses with BBSE. Dual w/BOP are licensed with BBSE and the Board of Psychology.

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

BOARD OF BEHAVIORAL SCIENCES
CATEGORY TYPES OF DISCIPLINARY ACTION TAKEN
2006 - 2007
FISCAL YEAR *

		MFT IMF	LCSW ASW	LEP	APPLICANT
REVOC. STAYED: PROB ONLY					
Unprofessional Conduct		1	2		
Aiding and Abetting					
Sexual Misconduct					
Discipline by Another State Agency					
Conviction of a Crime		3			
Subtotal	6	4	2	0	0
REVOC. STAYED: PROB, SUSPENSION					
Conviction of a Crime		1	1		
Fraud		1			
Subtotal	3	2	1	0	0
REVOKED					
Improper Supervision					
Discipline by Another State Agency					
Conviction of a Crime		3	2		
Sexual Misconduct					
Subtotal	5	3	2	0	0
SURRENDER OF LICENSE					
Unprofessional Conduct			1		
Discipline by Another State Agency			1		
Violation of Probation		1			
Sexual Misconduct					
Conviction of a Crime			1		
Subtotal	4	1	3	0	0
OTHER DISCIPLINE					
Discipline by Another State Agency				1	
Subtotal	1			1	
TOTAL	19	10	8	1	0

* Time frame: July 1, 2006 through March 31, 2007

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

BOARD OF BEHAVIORAL SCIENCES CITATIONS ISSUED BY CATEGORY

Agency Category Types	02/03	03/04	04/05	05/06	06/07*
Sexual Misconduct					1
Improper Supervision	1	1	2		5
Aiding & Abetting				1	
Failure/Report Abuse	1	1			
Breach of Confidence	2	6	5	5	2
Advertising/Misrepresentation	1	1	1		
Unlicensed Practice	4	3	7	2	2
Failure Report Conviction on Renewal	2				1
Non Compliance with CE Audit	12	6	44	148	67
Failure Report Conviction on Application	1		1	1	
Subvert Licensing Exam		1			
Practicing Beyond Scope			1		
Client Abandonment				1	
Unprofessional Conduct			2	2	6
TOTAL	24	19	63	160	84

	02/03	03/04	04/05	05/06	06/07*
Number Citations Ordered	24	19	63	160	84
Fines Assessed				\$61,650.00	\$42,400.00
Fines Collected (1)				\$37,150.00	\$26,550.00

(1) May reflect collection of fines ordered in previous fiscal years.

* 06/07 Fiscal Year through: March 31, 2007

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

**BOARD OF BEHAVIORAL SCIENCES
RECOVERY COSTS**

	02/03	03/04	04/05	05/06	06/07*
Number Cases Ordered	12	9	12	11	13
Total Amount Ordered	\$36,258.50	\$25,497.50	\$73,791.25	\$47,751.25	\$2,148.00
Stipulation - Revocation(1)				\$1,320.00	\$1,350.50
Stipulation - Voluntary Surrender(2)				\$36,008.25	\$15,096.50
Stipulation - Probation				\$1,500.00	\$33,305.50
Decision - Revocation				\$6,410.50	
Decision - Probation				\$2,512.50	\$2,395.50
Total Amount Collected (3)	\$57,867.25	\$20,600.08	\$23,791.89	\$15,168.57	\$10,660.32
Intercepted by FTB Program				\$314.73	
Cost Collected in Payments				\$8,058.34	\$4,872.32
Cost Collected in Lump Sum				\$6,795.50	\$5,788.00

(1) Cost recovery only required if the respondent pursues reinstatement (may never be recovered).

(2) Cost recovery only required if the respondent reapplies for licensure (may never be recovered).

(3) May reflect collection of cost recovery ordered in previous fiscal years.

* 06/07 Fiscal Year through: March 31, 2007

Note: These statistics are for informational purposes only and should not be used as the the sole source to analyze the Board's enforcement program.

**BOARD OF BEHAVIORAL SCIENCES
REIMBURSEMENT OF PROBATION PROGRAM**

	02/03	03/04	04/05	05/06	06/07 *
# Cases Ordered		1	3	4	8
Amount Ordered Per Year (\$1,200)		\$6,000.00	\$16,800.00	\$19,200.00	\$43,200.00
Amount Collected		0	\$1,900.00	\$3,800.00	\$5,900.00
<hr/>					
<hr/>					

* 06/07 Fiscal Year through: March 31, 2007

Note: These statistics are for informational purposes only and should not be used as the the sole source t analyze the Board's enforcement program.

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Board Members

Date: May 16, 2007

From: Christina Kitamura
Administrative Assistant

Telephone: (916) 574-7835

Subject: Examination Statistics

There is nothing new to report on examination statistics. The next update will be included at the August 2007 Board meeting.

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- I. Notice of Proposed Changes and Originally Proposed Language
- II. Initial Statement of Reasons
- III. Statement Regarding Mailing
- IV. Updated Informative Digest
- V. Final Statement of Reasons
- VI. February 15, 2007 Regulation Hearing (Board Meeting) Minutes
- VII. Written Comments
- VIII. All Fiscal Impact/Cost Estimates/STD 399

CLOSING STATEMENT/CERTIFICATION

I, Paul Riches, am the agency official who compiled this rulemaking file with the assistance of my employees and agents.

I certify that I have complied with the requirements of Business and Professions Code Section 313.1.

I declare under penalty of perjury under the laws of the State of California that the record in this matter closed on _____ and the file and this copy of the file are complete.

Executed this _____ day of _____ 2007 at Sacramento, California.

PAUL RICHES
Executive Officer

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**TITLE 16 DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF BEHAVIORAL SCIENCES
NOTICE OF PROPOSED CHANGES IN THE REGULATIONS**

NOTICE IS HEREBY GIVEN that the Board of Behavioral Sciences (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the **Mission Inn, 3649 Mission Inn Avenue, Riverside, CA 92501** on **February 15, 2007** at **1:00 p.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on **February 14, 2007** or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposal substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 4980.54, 4980.60, 4990.14, and 4996.22 of the Business and Professions Code, and to implement, interpret, or make specific Sections 29, 32, 4980.54, and 4996.22 of the Business and Professions Code, the Board is considering changes to Division 18 of Title 16 of the California Code of Regulations (CCR) as follows:

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

**Amend Section 1887.2 – Exceptions From Continuing Education Requirements
Amend Section 1887.3 – Continuing Education Course Requirements**

The Board governs the practice of marriage and family therapy, licensed clinical social work, and licensed educational psychology. In order to continuously improve the competence of licensed professionals, the aforementioned statutes require that licensees accrue continuing education (CE) hours during each license renewal period. Section 1887.3 sets forth the specific requirements with respect to the CE hours, course content, etc., while Section 1887.2 sets forth exceptions from the standard CE requirements.

With respect to the context of this proposal, Section 1887.2(a) requires that an initial licensee complete at least eighteen (18) hours of continuing education (CE) prior to his or her first license renewal, of which no more than six (6) hours may be earned through self-study courses. Section 1887.3(a) requires that a licensee complete at least thirty-six (36) hours of CE during each subsequent license renewal period, of which no more than twelve (12) hours may be earned through self-study courses. This proposal would change the maximum hour limitations, with respect to CE hours earned through self-study courses, to nine (9) and eighteen (18), respectively.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:
N/A

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impacts on Representative Private Persons or Businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulatory action would not affect small businesses. This proposal would allow licensees to earn additional hours of CE credit through self-study courses.

CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an Initial Statement of Reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Contact Person listed below.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All of the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the Contact Person named below.

You may obtain a copy of the Final Statement of Reasons, once it has been prepared, by making a written request to the Contact Person named below (or by accessing the website listed below).

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Justin Sotelo
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7836
Fax: 916-574-8625
Email: Justin_Sotelo@dca.ca.gov

The backup contact person is:

Name: Christy Berger
Address: Board of Behavioral Sciences
1625 North Market Blvd, Suite S200
Sacramento CA 95834
Telephone: 916-574-7837
Fax: 916-574-8625
Email: Christy_Berger@dca.ca.gov

WEBSITE ACCESS

Materials regarding this proposal can be found at www.bbs.ca.gov.

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BOARD OF BEHAVIORAL SCIENCES
PROPOSED LANGUAGE
Title 16, California Code of Regulations (CCR)
Sections 1887.2 and 1887.3

Amend CCR Sections 1887.2 and 1887.3 as follows:

§1887.2 – Exceptions from Continuing Education Requirements

(a) An initial licensee shall complete at least eighteen (18) hours of continuing education, of which no more than ~~six (6)~~ nine (9) hours may be earned through self-study courses, prior to his or her first license renewal.

(b) A licensee is exempt from the continuing education requirement if their license is inactive pursuant to Sections 4984.8 and 4997 of the Code.

(c) A licensee may submit a written request for exception from the continuing education requirement for any of the reasons listed below. The board will notify the licensee, within thirty (30) working days after receipt of the request for exception, whether the exception was granted. If the request for exception is denied, the licensee is responsible for completing the full amount of continuing education required for license renewal. The board shall grant the exception if the licensee can provide evidence, satisfactory to the board, that:

(1) For at least one year during the licensee's previous license renewal period the licensee was absent from California due to military service;

(2) For at least one year during the licensee's previous license renewal period the licensee resided in another country; or

(3) During the licensee's previous renewal period, the licensee or an immediate family member, where the licensee has primary responsibility for the care of that family member, was suffering from or suffered a disability. A disability is a physical or mental impairment that substantially limits one or more of the major life activities of an individual. The disability must be verified by a licensed physician or psychologist with special expertise in the area of the disability. Verification of the disability must include:

(A) the nature and extent of the disability;

(B) an explanation of how the disability would hinder the licensee from completing the continuing education requirement; and

(C) the name, title, address, telephone number, professional license or certification number, and original signature of the licensed physician or psychologist verifying the disability.

Note: Authority Cited: Sections 4980.54, 4980.60, 4990.14, and 4996.22, Business and Professions Code. Reference: Sections 4980.54 and 4996.22, Business and Professions Code.

History :

1. New section filed 5-19-97; operative 5-19-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).

2. Change without regulatory effect amending subsection (b) filed 4-19-99 pursuant to section 100, Title 1, California Code of Regulations (Register 99, No. 17).

§1887.3 – Continuing Education Course Requirements

(a) A licensee shall accrue at least thirty-six (36) hours of continuing education courses as defined in Section 1887.4. A licensee may accrue no more than ~~twelve (12)~~ eighteen (18) hours of continuing education earned through self-study courses during a single renewal period.

(b) Pursuant to Section 29 of the Code, a licensee who started graduate study prior to January 1, 1986, shall take a continuing education course in the detection and treatment of alcohol and other chemical substance dependency during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 29 of the Code. This is a one-time requirement for those licensees specified above.

Equivalent alcohol and other chemical substance dependency courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

(c) Pursuant to Section 32 of the Code, a licensee shall take a continuing education course in the characteristics and methods of assessment and treatment of people living with human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) during their first renewal period after the adoption of these regulations. The course shall be at least seven (7) hours in length and its content shall comply with the requirements of Section 32 of the Code. This is a one-time requirement for all licensees.

Equivalent HIV and AIDS courses taken prior to the adoption of these regulations, or proof of equivalent teaching or practice experience, may be submitted to the board upon request in lieu of this requirement; however, this coursework or experience shall not be credited as hours towards the continuing education requirements.

(d) Any person renewing his or her license on and after January 1, 2004 shall have completed not less than six (6) hours of continuing education in the subject of law and ethics for each renewal period. The six (6) hours shall be considered part of the thirty-six (36) hour continuing education requirement.

(e) If a licensee teaches a course, the licensee may claim credit for the course only one time during a single renewal period, receiving the same amount of hours of continuing education credit as a licensee who attended the course.

(f) A licensee may not claim the same course more than once during a single renewal period for hours of continuing education credit.

(g) A licensee who takes a course as a condition of probation resulting from disciplinary action by the board may not apply the course as credit towards the continuing education requirement.

Note: Authority Cited: Sections 4980.60 and 4990.14, Business and Professions Code. Reference: Sections 29, 32, 4980.54 and 4996.22, Business and Professions Code.

History:

1. New section filed 5-19-97; operative 5-19-97 96 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).
2. New subsection (d) and subsection relettering filed 12-4-01; operative 1-1-2002 pursuant to Government Code section 11343.4 (Register 2001, No. 49).

**STATE OF CALIFORNIA – DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF BEHAVIORAL SCIENCES
INITIAL STATEMENT OF REASONS**

HEARING DATE: February 15, 2007

SUBJECT MATTER OF PROPOSED REGULATIONS: Exceptions From Continuing Education Requirements; Continuing Education Course Requirements

SECTIONS AFFECTED: Sections 1887.2 and 1887.3 of Division 18 of Title 16 of the California Code of Regulations

SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL:

The specific purpose of this proposal is to reduce limitations with respect to the maximum amount of continuing education (CE) hours that a licensee can earn through self-study courses during his/her initial license period and all subsequent license renewal periods.

The Board currently allows a licensee to earn up to six (6) hours of CE through self-study courses during his/her initial license period and up to twelve (12) hours of CE through self-study courses during all subsequent license renewal periods. This proposal would change those maximum hour limitations to nine (9) and eighteen (18), respectively.

FACTUAL BASIS/RATIONALE

This proposal is reasonably necessary in order to allow licensees to earn additional hours of CE credit through self-study courses.

UNDERLYING DATA

None

BUSINESS IMPACT

This proposal will not have a significant adverse economic impact on businesses. This proposal would allow licensees to earn additional hours of CE credit through self-study courses.

SPECIFIC TECHNOLOGIES OR EQUIPMENT

The proposed regulations do not mandate the use of specific technologies or equipment.

CONSIDERATION OF ALTERNATIVES

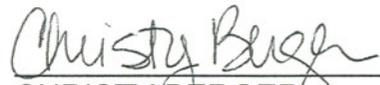
No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

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STATEMENT OF SERVICE BY MAIL

I certify that the Board of Behavioral Sciences has complied with the requirements of Government Code Section 11346.4(a)(1) through (4) and that the notice was mailed, and pursuant to Government Code Section 11340.85, sent by electronic communication on December 22, 2006.

DATED: 12/22/06



CHRISTY BERGER
Regulations Coordinator

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UPDATED INFORMATIVE DIGEST

The informative digest published on December 22, 2006 by the Board of Behavioral Sciences accurately summarizes the final regulatory action taken with respect to this filing.

On May 31, 2007, the members of the Board of Behavioral Sciences passed the following motion:

- The Board has considered and approved the Rulemaking Record
- The Board approves and adopts the modified text for Sections 1887.2 and 1887.3 as its final language.
- The Board directs staff to file the Rulemaking Record with the Office of Administrative Law for final approval and filing with the Secretary of State.

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BOARD OF BEHAVIORAL SCIENCES
FINAL STATEMENT OF REASONS

Hearing Date: February 15, 2007

Section(s) Affected: Title 16, California Code of Regulations Sections 1887.2 and 1887.3

Updated Information

The Initial Statement of Reasons is included in the file (Tab II). There were no changes to the proposed regulations.

Local Mandate

The proposed regulations do not impose any mandate on local agencies or school districts.

Business Impact

The Board has determined that this action will not have a significant adverse economic impact on business.

Consideration of Alternatives

The Board has determined that no reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Board would be either more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Objections or Recommendations/Responses

See attached letter from Stan Weisner in Tab IX. Responses to this letter are also provided in Tab IX.

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***Refer to Agenda Item III for
February 15, 2007 Regulation Hearing
(Board Meeting) Minutes***

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"Stan Weisner"
<stan@unex.berkeley.edu>
02/14/2007 10:53 AM

To <Justin_Sotelo@dca.ca.gov>
<Christy_Berger@dca.ca.gov>, "Diana Wu"
cc <dwu@unex.berkeley.edu>, <Todd.Greenspan@ucop.edu>, <joyce.justus@ucop.edu>, "Stan Weisner"
bcc
Subject Opposition to California Regulatory Law Bulletin - Board of Behavioral Sciences Proposed Regulation on Continuing Education Requirements

Justin Sotelo
Board of Behavioral Sciences
1625 North Market Blvd., S200
Sacramento, CA. 95834

Dear Mr. Sotelo:

I am submitting the following statement in opposition to the BOARD OF BEHAVIORAL SCIENCES PROPOSED REGULATION ON CONTINUING EDUCATION REQUIREMENTS FOR MARRIAGE & FAMILY THERAPY, LICENSED CLINICAL SOCIAL WORK & LICENSED EDUCATION PSYCHOLOGY

February 14, 2007
Board of Behavioral Sciences:

I would like to state my opposition to the proposed amendment to Sections 1887.2 and 1887.3 of Title 16 of the California Code of Regulations pertaining to the continuing education requirements for MFT, LCSW, and Ed. Psych. licensees. This change in the regulation of the proposal to increase the allowable 'self-study' hours from 1/3 to up to 1/2 of the total number of hours required for BBS re-licensure (18 hours for the first period, and 36 hours, every two years, thereafter) is ill-advised and does not serve the interests of either the public or the licensed mental health professionals who serve them.

Graduate Schools of Social Work and counseling psychology, the social work and counseling professions, and the Board of Behavioral Sciences should all be opposed to it on the grounds that professional development in the counseling and psychotherapy field of practice that requires interpersonal skill development should be 'primarily' obtained in traditional, face-to-face workshop settings which allows for feedback and interaction with both a trained and qualified instructor and other colleagues.

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Support for this proposed legislation often comes from low-cost, online and self-study guide providers who want to increase their market share in the highly competitive CEU business. Many licensed clinicians in California will also find the opportunity to take more courses at a lower cost, and with fewer logistical challenges, very appealing. This may, however, over time, be to the detriment of their own professional development as well as the well-being of their clientele.

Except for those ceu workshops which might NOT involve counseling skills/techniques (now up to 1/3rd), licensed clinicians in California should continue to be held to a higher standard of professional development and NOT be allowed to take more of the required 36 hours during the two year re-licensure period online.

3

Stan Weisner, Ph.D., MSW, Director

Behavioral and Biological Sciences and Math
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cc. Diana Wu, Ph.D., Interim Dean
UC Berkeley Extension

Todd Greenspan
UC Office of the President

Board of Behavioral Sciences
Continuing Education Self-Study
 45-Day Comments: L=Letter S=Speaker. Sorted by COMMENTER

Comment Number	Summary of Comment	Response	Revision Needed?	Section/Area
L01-01	Professional development in the psychotherapy field requires interpersonal skill development be primarily obtained in traditional face-to-face workshop settings which allows for feedback and interaction with a qualified instructor and colleagues.	REJECTED. Current law already permits all continuing education hours to be obtained through electronic means, which is not provided in a face-to-face format. This proposal would simply permit more hours to be obtained through other types of self-study.	No.	1887.2, 1887.3
L01-02	Support for this proposal comes from low-cost, online and self-study providers who want to increase their market share. This will be appealing to clinicians but may be to the detriment of their clientele.	REJECTED. This proposal only provides a small increase in the amount of continuing education that can be earned through self-study. All continuing education hours can currently be earned online.	No.	1887.2, 1887.3
L01-03	Clinicians should be held to a higher standard of professional development and not be allowed to take more continuing education online.	REJECTED. This proposal does not lower standards as all continuing education hours can currently be earned online	No.	1887.2, 1887.3

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ECONOMIC AND FISCAL IMPACT STATEMENT
(REGULATIONS AND ORDERS)

STD. 399 (Rev. 2-98)

See SAM Sections 6600 - 6680 for Instructions and Code Citations

DEPARTMENT NAME Consumer Affairs/Bd of Behavioral Sciences	CONTACT PERSON Justin Sotelo	TELEPHONE NUMBER (916) 574-7836
DESCRIPTIVE TITLE FROM NOTICE REGISTER OR FORM 400 Exceptions From CE Requirements / CE Course Requirements		NOTICE FILE NUMBER Z

ECONOMIC IMPACT STATEMENT

A. ESTIMATED PRIVATE SECTOR COST IMPACTS (Include calculations and assumptions in the rulemaking record.)

1. Check the appropriate box(es) below to indicate whether this regulation:

- a. Impacts businesses and/or employees
- b. Impacts small businesses
- c. Impacts jobs or occupations
- d. Impacts California competitiveness
- e. Imposes reporting requirements
- f. Imposes prescriptive instead of performance standards
- g. Impacts individuals
- h. None of the above (Explain below. Complete the Fiscal Impact Statement as appropriate.)

h. (cont.) This proposal would allow licensees to earn additional hrs of CE credit through self-study courses.

(If any box in Items 1 a through g is checked, complete this Economic Impact Statement.)

2. Enter the total number of businesses impacted: 0 Describe the types of businesses (Include nonprofits): N/A

Enter the number or percentage of total businesses impacted that are small businesses: 0

3. Enter the number of businesses that will be created: 0 eliminated: 0

Explain: N/A

4. Indicate the geographic extent of impacts: Statewide Local or regional (list areas): N/A

5. Enter the number of jobs created: 0 or eliminated: 0 Describe the types of jobs or occupations impacted: N/A

6. Will the regulation affect the ability of California businesses to compete with other states by making it more costly to produce goods or services here?

Yes No If yes, explain briefly: N/A

B. ESTIMATED COSTS (Include calculations and assumptions in the rulemaking record.)

1. What are the total statewide dollar costs that businesses and individuals may incur to comply with this regulation over its lifetime? \$ 0

a. Initial costs for a small business: \$ 0 Annual ongoing costs: \$ 0 Years: N/A

b. Initial costs for a typical business: \$ 0 Annual ongoing costs: \$ 0 Years: N/A

c. Initial costs for an individual: \$ 0 Annual ongoing costs: \$ 0 Years: N/A

d. Describe other economic costs that may occur: N/A

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 2-98)

2. If multiple industries are impacted, enter the share of total costs for each industry: N/A

3. If the regulation imposes reporting requirements, enter the annual costs a typical business may incur to comply with these requirements. (Include the dollar costs to do programming, record keeping, reporting, and other paperwork, whether or not the paperwork must be submitted.): \$ N/A

4. Will this regulation directly impact housing costs? Yes No If yes, enter the annual dollar cost per housing unit: \$ 0 and the number of units: 0

5. Are there comparable Federal regulations? Yes No Explain the need for State regulation given the existence or absence of Federal regulations: This area of law is regulated at the state level.

Enter any additional costs to businesses and/or individuals that may be due to State - Federal differences: \$ 0

C. ESTIMATED BENEFITS (Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. Briefly summarize the benefits that may result from this regulation and who will benefit: The purpose of this proposal is to reduce limitations with respect to the maximum amount of CE hours that a licensee can earn through self-study courses during his/her initial license period and all subsequent license renewal periods.

2. Are the benefits the result of: specific statutory requirements, or goals developed by the agency based on broad statutory authority? Explain: BPC Sections 4980.54, 4980.60, 4990.14, and 4996.22

3. What are the total statewide benefits from this regulation over its lifetime? \$ 0

D. ALTERNATIVES TO THE REGULATION (Include calculations and assumptions in the rulemaking record. Estimation of the dollar value of benefits is not specifically required by rulemaking law, but encouraged.)

1. List alternatives considered and describe them below. If no alternatives were considered, explain why not: The Board considered not limiting the amount of CE obtained by any one method (i.e., academic studies, lectures, workshops, self-study, etc.); however, it was determined that limiting self-study hours to 1/2 of the total CE hour requirement would be

2. Summarize the total statewide costs and benefits from this regulation and each alternative considered:

Regulation:	Benefit: \$ <u>0</u>	Cost: \$ <u>0</u>
Alternative 1:	Benefit: \$ <u>0</u>	Cost: \$ <u>0</u>
Alternative 2:	Benefit: \$ <u>0</u>	Cost: \$ <u>0</u>

3. Briefly discuss any quantification issues that are relevant to a comparison of estimated costs and benefits for this regulation or alternatives: N/A

4. Rulemaking law requires agencies to consider performance standards as an alternative, if a regulation mandates the use of specific technologies or equipment, or prescribes specific actions or procedures. Were performance standards considered to lower compliance costs? Yes No Explain: N/A

E. MAJOR REGULATIONS (Include calculations and assumptions in the rulemaking record.)

Cal/EPA boards, offices and departments are subject to the following additional requirements per Health and Safety Code section 57005.

ECONOMIC AND FISCAL IMPACT STATEMENT cont. (STD. 399, Rev. 2-98)

1. Will the estimated costs of this regulation to California business enterprises exceed \$10 million? Yes No (If No, skip the rest of this section)

2. Briefly describe each equally as effective alternative, or combination of alternatives, for which a cost-effectiveness analysis was performed:

Alternative 1: _____

Alternative 2: _____

3. For the regulation, and each alternative just described, enter the estimated total cost and overall cost-effectiveness ratio:

Regulation: \$ _____ Cost-effectiveness ratio: _____

Alternative 1: \$ _____ Cost-effectiveness ratio: _____

Alternative 2: \$ _____ Cost-effectiveness ratio: _____

FISCAL IMPACT STATEMENT

A. FISCAL EFFECT ON LOCAL GOVERNMENT (Indicate appropriate boxes 1 through 6 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years)

1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code. Funding for this reimbursement:

a. is provided in (Item _____, Budget Act of _____) or (Chapter _____, Statutes of _____)

b. will be requested in the _____ Governor's Budget for appropriation in Budget Act of _____
(FISCAL YEAR)

2. Additional expenditures of approximately \$ _____ in the current State Fiscal Year which are not reimbursable by the State pursuant to Section 6 of Article XIII B of the California Constitution and Sections 17500 et seq. of the Government Code because this regulation:

a. implements the Federal mandate contained in _____

b. implements the court mandate set forth by the _____
court in the case of _____ vs. _____

c. implements a mandate of the people of this State expressed in their approval of Proposition No. _____ at the _____
election; (DATE)

d. is issued only in response to a specific request from the _____
_____, which is/are the only local entity(s) affected;

e. will be fully financed from the _____ authorized by Section _____
(FEES, REVENUE, ETC.)
_____ of the _____ Code;

f. provides for savings to each affected unit of local government which will, at a minimum, offset any additional costs to each such unit.

3. Savings of approximately \$ _____ annually.

4. No additional costs or savings because this regulation makes only technical, non-substantive or clarifying changes to current law and regulations.

ECONOMIC AND FISCAL IMPACT STATEMENT *cont.* (STD. 399, Rev. 2-98)

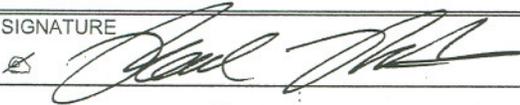
- 5. No fiscal impact exists because this regulation does not affect any local entity or program.
- 6. Other.

B. FISCAL EFFECT ON STATE GOVERNMENT *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

- 1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year. It is anticipated that State agencies will:
 - a. be able to absorb these additional costs within their existing budgets and resources.
 - b. request an increase in the currently authorized budget level for the _____ fiscal year.
- 2. Savings of approximately \$ _____ in the current State Fiscal Year.
- 3. No fiscal impact exists because this regulation does not affect any State agency or program.
- 4. Other.

C. FISCAL EFFECT ON FEDERAL FUNDING OF STATE PROGRAMS *(Indicate appropriate boxes 1 through 4 and attach calculations and assumptions of fiscal impact for the current year and two subsequent Fiscal Years.)*

- 1. Additional expenditures of approximately \$ _____ in the current State Fiscal Year.
- 2. Savings of approximately \$ _____ in the current State Fiscal Year.
- 3. No fiscal impact exists because this regulation does not affect any federally funded State agency or program.
- 4. Other.

SIGNATURE	TITLE	
	Paul Riches, Executive Officer	
AGENCY SECRETARY ¹		DATE
APPROVAL/CONCURRENCE 	PROGRAM BUDGET MANAGER	
DEPARTMENT OF FINANCE ²		DATE
APPROVAL/CONCURRENCE 		

1. The signature attests that the agency has completed the STD. 399 according to the instructions in SAM sections 6600-6680, and understands the impacts of the proposed rulemaking. State boards, offices, or departments not under an Agency Secretary must have the form signed by the highest ranking official in the organization.

2. Finance approval and signature is required when SAM sections 6600-6670 require completion of the Fiscal Impact Statement in the STD. 399.

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830, (916) 574-8625 Fax
www.bbs.ca.gov

To: Board Members

Date: May 11, 2007

From: Paul Riches
Executive Officer

Telephone: (916) 574-7840

Subject: Election of Officers

Section 4990 of the Business and Professions Code requires the board to elect a Chair and Vice-Chair prior to June 1 of each year. Currently, Victor Law is the Board Chair and Ian Russ is the Vice-Chair. Accordingly, the board should elect both a chair and a vice-chair at this meeting.

Below a list of board members and the date on which their terms expire.

Board Member	Type	Authority	Date Appointed	Term Expires	Grace Expires
Donna DiGiorgio	Public	Governor	9/19/2005	6/1/2007	8/1/2007
Victor Law -- Chair	Public	Assembly	11/1/2003	6/1/2007	6/1/2008
Howard Stein	Public	Senate	5/28/2003	6/1/2007	6/1/2008
Judy Johnson	LEP	Governor	8/24/2005	6/1/2008	8/1/2008
Joan Walmsley	LCSW	Governor	11/11/2005	6/1/2009	8/1/2009
Ian Russ	MFT	Governor	9/19/2005	6/1/2009	8/1/2009
Karen Roye	Public	Governor	9/7/2006	6/1/2009	8/1/2009
D'Karla Leach	Public	Governor	9/7/2006	6/1/2009	8/1/2009
Victor Perez	Public	Governor	11/3/2006	6/1/2010	8/1/2010
Renee Lonner	LCSW	Governor	1/17/2007	6/1/2010	8/1/2010
Vacant	MFT	Governor		6/1/2010	8/1/2010

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To: Board Members

Date: May 16, 2007

From: Paul Riches
Executive Officer

Telephone: (916) 574-7840

Subject: Strategic Planning

Background

In December 2006, the board contracted with Hatton Management Consultants to guide a new strategic planning initiative. The board last underwent such an effort in 2005. Since that time, the board has seen eight new board members appointed and a significant infusion of new staff. Given this level of change, a new strategic planning effort provides an excellent opportunity to gain a common commitment to the board's future direction.

The process began with the deployment of a survey of the board's stakeholders, staff and members to assess the organizations current functioning and to collect comments regarding the board's strengths, weaknesses, opportunities and threats (SWOT). The results of this survey are attached to this memo. The survey was sent (via email) to 71 external stakeholders, all board members and all staff. The aggregate response rate was 65% and the responses to the open ended questions were robust.

The results of this survey served as the basis for three work sessions with the board staff to develop revisions to the current Vision and Mission statements, as well as new goal statements (these items will be subject to final review by staff at a May 23, 2007 meeting and mailed out under separate cover next week). Staff is currently working on developing objectives for each goal statement. Draft objectives will be presented for the board's review as well.

What to Expect from the Strategic Planning Work Session

The board work session will be facilitated by our contractor, Lindle Hatton, and will take the board through the work product to date and solicit the comments and insight from the board members and members of the public. That information will be taken back and staff will develop a final draft plan for the board to consider at the August 2007 board meeting including a complete set of objectives.

Attachments

Current Strategic Plan
2007 Strategic Planning Survey Results
Draft Vision, Mission, Values, Goals and Objectives (to follow under separate cover)

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California Board of Behavioral Science Strategic Initiative Survey Results April 2007

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**Report prepared by Hatton Management Consultants
 Lindle Hatton
 Louise Hatton**

Description of Survey

The BBS commenced a Strategic Plan Initiative in December 2006. A survey designed to measure BBS effectiveness and obtain information for developing a strategic plan was sent to a representative sample of outside stakeholders including practitioners, administrators, mental health advocates, Board members, students and all BBS Staff in January 2007.

The survey data has been separated into two groups: 'stakeholders' and 'staff'. For each group the following data is shown:

The 'Organizational Effectiveness' survey consisted of 23 questions formatted in a 5-point Likert scale, with an option of 'Don't Know'. In the 'Organizational Effectiveness' summary, Response Averages with an *asterisk have 'Don't Know' as the most or second most numbers of responses. Therefore, the Response Average may need to be critically examined. In addition, depending on the group surveyed, the question may be one that particular group does not have sufficient knowledge to respond. The table for 'Stakeholders' is shaded

Open-ended questions asked about ACCOMPLISHMENTS, STRENGTHS, WEAKNESSES, OPPORTUNITIES, and THREATS (SWOT). Responses to these questions have been grouped under themes with the theme title derived from the responses. These themes will serve to focus the BBS on areas for writing goals. Particularly important are themes that cut across more than one group, such as a theme that can be found in weaknesses, opportunities, and threats. Individual comments under themes are in no particular order. All comments have been edited for spelling and grammar. Comments that could be traced to a particular individual have been modified so as not to reveal identity. Responses such as 'I don't know' or 'Can't think of any' have been deleted.

The table of below is a summary of the number of responses. On the following pages is first, a chart that compares SWOT themes across the two survey groups, second, a chart that compares the SWOT themes across the categories, and third, an 'Organizational Effectiveness Summary' comparison between the two survey groups. Items highlighted in yellow have more than a 0.5 difference between the two groups. Following the summaries, the detail data from both survey groups is presented.

Summary of Responses

Group	Number Of Responses	Number of Invitees	Percent of Responses Within Groups	Percent of Total Responses All Groups
Stakeholders	39	71	54.9%	59.1%
Staff	27	31	87.1%	40.9%
Total	66	102	64.7%	100%

Comparison of SWOT themes across survey groups

	From Stakeholders	From Staff
Strengths	Strategic Direction	Strategic Direction
	Outreach and communications	Communication
	Board	Leadership
	Operations	Staff
Weaknesses	Strategic Direction	
	Resource Limitations	Staff shortages, workload, utilization
	Status Quo	State Agency realities
	Board Meeting Changes	
	Complaint Investigations	
	Demographics	
		Application and Website constraints
		Use of outside testing vendor
Opportunities	Licensing	Application and Testing
	Outreach and communications	
	Demographics	
	MHSA	Mental Health Services
		Strategic Direction
		Staffing
Threats	Examination and Licensing	Examination Vendor
	Licensing Factions	
	Status Quo - Bureaucracy	Political Environment and Budget
	Resources	Staffing
	Sunset Legislation	Sunset Legislation

The purpose of this chart is to compare common themes between the two survey groups. When there is commonality, the theme should be considered very important for goal setting purposes. See the chart on the following page for more commonalities from a different perspective.

Comparison of SWOT themes across categories

Theme	Strengths		Weaknesses		Opportunities		Threats	
	Stakeholders	Staff	Stakeholders	Staff	Stakeholders	Staff	Stakeholders	Staff
Resources/ Staffing		X	X	X		X	X	X
Examination/ Licensing				X	X	X	X	X
Strategic Direction	X	X	X			X		
Status Quo, Bureaucracy/ State Agency			X	X			X	X
Outreach/ Communications	X	X			X			
MHSA/ Mental Health Services					X	X		
Demographics			X		X			
Sunset Legislation							X	X
Leadership – Board	X	X						

The chart above shows commonality of the themes across the SWOT categories and by survey group. Generally, the more 'X's', the more important the theme is for goal setting. However, goals should be focused on the WEAKNESSES, OPPORTUNITIES, and THREATS, (WOT) rather than on STRENGTHS. Use the STRENGTHS to accomplish the goals. As an example, the first two themes above, 'Resources' and 'Examination/Licensing' both have 5 X's in the WOT categories so both themes could be considered equally important. For purposes of writing Objectives and Work Action Plans, specific comments from this survey should also be considered.

BBS Organizational Effectiveness Summary

Comparison of Stakeholders and Staff Response Averages

Items highlighted in **yellow** indicate there is more than 0.5 difference in the average score between the groups. Response Averages with an *asterisk indicate that the 'Don't Know' had the most or second most responses.

	Stakeholder Response Average	Staff Response Average
1. The BBS' staff members clearly understand what is expected of them and their role in the organization.	4.30	3.88
2. The BBS has the resources to be effective.	4.03	3.72
3. The BBS strives for continuous improvement in all its organizational processes and programs.	4.50	4.30
4. The BBS' executive team effectively implements the policy directions of its legislative mandates.	4.34	4.12
5. The BBS conveys a clear sense of the organization's vision, mission, and core values.	4.22	4.07
6. Each BBS staff member's opinion is important to the organization.	4.38*	3.74
7. The BBS is effective in accomplishing its goals and objectives	4.18	3.93
8. The current BBS executive team composition is very effective.	4.45	3.96
9. The BBS' performance has been very effective for the State of California.	4.20	4.22
10. The BBS actively searches for opportunities to improve the organization.	4.57	4.52
11. The BBS' communication to the public is very effective	3.78	3.74
12. Communication between the BBS and outside stakeholders, including Legislators and affiliated associations is very effective.	3.90	4.00

13. The BBS' executive team has an effective internal relationship that works well for the organization.	4.42*	3.81
14. The BBS is proactive in anticipating changes, identifying opportunities, and pursuing them.	4.14	4.12
15. The BBS effectively addresses the performance of its executives.	4.33*	3.79
16. The BBS has a clear vision for the future of the organization.	4.20	4.29
17. The BBS is a model State of California department	4.11*	3.76
18. The BBS' executive team members can be counted on to fulfill their commitments.	4.45	4.25
19. The BBS is effective in holding its employees accountable for their work in the organization.	4.14*	4.00
20. The BBS' executive team is effective in directing the organization.	4.45	4.04
21. The BBS is effective achieving its vision and mission.	3.91	4.11
22. The BBS knows how to get things done.	4.20	4.23
23. The BBS is an organization that operates with integrity	4.51	4.33
Effectiveness Index	4.25	4.04

BBS Organizational Effectiveness – Stakeholders

Response Averages with an *asterisk have 'Don't Know' as the most or second most response.

	Strongly Disagree				Strongly Agree	Don't Know	Response Average
1. The BBS' staff members clearly understand what is expected of them and their role in the organization.	0% (0)	0% (0)	13% (5)	23% (9)	33% (13)	31% (12)	4.30
2. The BBS has the resources to be effective.	3% (1)	5% (2)	18% (7)	21% (8)	38% (15)	15% (6)	4.03
3. The BBS strives for continuous improvement in all its organizational processes and programs.	0% (0)	3% (1)	3% (1)	33% (13)	54% (21)	8% (3)	4.50
4. The BBS' executive team effectively implements the policy directions of its legislative mandates.	0% (0)	0% (0)	10% (4)	33% (13)	38% (15)	18% (7)	4.34
5. The BBS conveys a clear sense of the organization's vision, mission, and core values.	0% (0)	3% (1)	13% (5)	41% (16)	38% (15)	5% (2)	4.22
6. Each BBS staff member's opinion is important to the organization.	0% (0)	0% (0)	10% (4)	18% (7)	33% (13)	38% (15)	4.38*
7. The BBS is effective in accomplishing its goals and objectives.	0% (0)	0% (0)	13% (5)	46% (18)	28% (11)	13% (5)	4.18

8. The current BBS executive team composition is very effective.	0% (0)	3% (1)	8% (3)	21% (8)	50% (19)	18% (7)	4.45
9. The BBS' performance has been very effective for the State of California.	0% (0)	5% (2)	11% (4)	37% (14)	39% (15)	8% (3)	4.20
10. The BBS actively searches for opportunities to improve the organization.	% (0)	0% (0)	5% (2)	29% (11)	58% (22)	8% (3)	4.57
11. The BBS' communication to the public is very effective.	0% (0)	8% (3)	29% (11)	34% (13)	24% (9)	5% (2)	3.78
12. Communication between the BBS and outside stakeholders, including Legislators and affiliated associations is very effective.	0% (0)	5% (2)	18% (7)	32% (12)	21% (8)	24% (9)	3.90
13. The BBS' executive team has an effective internal relationship that works well for the organization.	0% (0)	0% (0)	11% (4)	16% (6)	37% (14)	37% (14)	4.42*
14. The BBS is proactive in anticipating changes, identifying opportunities, and pursuing them.	0% (0)	0% (0)	26% (10)	29% (11)	39% (15)	5% (2)	4.14

15. The BBS effectively addresses the performance of its executives.	0% (0)	0% (0)	5% (2)	26% (10)	24% (9)	45% (17)	4.33*
16. The BBS has a clear vision for the future of the organization.	0% (0)	0% (0)	15% (6)	41% (16)	33% (13)	10% (4)	4.20
17. The BBS is a model State of California department.	0% (0)	8% (3)	8% (3)	26% (10)	31% (12)	28% (11)	4.11*
18. The BBS' executive team members can be counted on to fulfill their commitments.	0% (0)	3% (1)	5% (2)	26% (10)	46% (18)	21% (8)	4.45
19. The BBS is effective in holding its employees accountable for their work in the organization.	0% (0)	3% (1)	8% (3)	23% (9)	21% (8)	46% (18)	4.14*
20. The BBS' executive team is effective in directing the organization.	0% (0)	0% (0)	8% (3)	28% (11)	44% (17)	21% (8)	4.45
21. The BBS is effective achieving its vision and mission.	0% (0)	5% (2)	21% (8)	38% (15)	23% (9)	13% (5)	3.91
22. The BBS knows how to get things done.	0% (0)	3% (1)	13% (5)	38% (15)	36% (14)	10% (4)	4.20
23. The BBS is an organization that operates with integrity.	0% (0)	0% (0)	8% (3)	28% (11)	54% (21)	10% (4)	4.51
Effectiveness Index							4.25
					Total Respondents		39

STAKEHOLDERS – ACCOMPLISHMENTS, STRENGTHS, WEAKNESSES, OPPORTUNITIES,

ACCOMPLISHMENTS (from stakeholders)

Outreach and Communication

- They have become a more open organization and are reaching out to their constituent groups
- Outreach and communication
- Increased communication with outside constituents.
- Effective out reach through internet and personal appearance by staff
- Increased communication to licensees and interns. Increased visibility via attendance at professional organizations meetings, schools and consortia meetings.
- Paul Riches has been appointed as the new Executive Director and has done an excellent job in his support of the Outreach Program that helps all of the MFT programs in CA.
- Diversity conference
- Improving communication between BBS and graduate institutions throughout the state.
- Effective and increased reliance of their website.
- Clarification of some confusing language in regulations.
- Increased local visibility and response to inquiries.
- Worked to update its electronic communication.
- Kudos for openly asking for input and feedback on issues the BBS is working on!
- Improvement in outreach to the community. Please continue with an even stronger effort.
- Outreach to MFT training schools
- Outreach to the public, in particular, students pursuing degrees in the professions the BBS regulates
- Collaboration with professional organizations and professional schools
- Direct participation and contribution in the various MFT school consortia in the state
- Direct participation and contribution in the various planning meetings of the state's dept of mental health and the MHA objectives
- Have incorporated excellent speakers to come and address questions at the graduate level.
- More visible and responsive to the stakeholders.

Examination, Licensing, and Continuing Education

- Willingness to be transparent in it's educational restructuring
- Evaluated testing of licensing process
- Continuous work on improvements to the licensing exams.
- The BBS has improved the process of intern hours validation
- Beginning the process of changing the exams.
- Creation of the 2nd written test when there was no money to continue with the oral examination.
- Some legislative changes that lessen the unnecessary 'bureaucracy' around the process of attaining licensure and providing clinical supervision.
- For MFT candidates, the licensing exam was changed to a more objective format.
- changing the MFT orals to a computerized, vignette-driven exam

- LEP updates and changes on pre-licensing criteria.
- MFT/LCSW reworking of CEU requirements.
- Worked to improve issues of license portability.
- Cutting the processing time down for the issuing of intern numbers.
- Have continued to grant licenses to very effective professors and therapists.
- Efficient response to consumer concerns regarding testing problems
- BBS has implemented using technology (the computer) to track and update applicants for renewal and licensure. BBS is working on updating what coursework a MFT candidate must take vs. what the public needs that candidate to know.
- Sliding Scale for students

Legislative Advocacy

- Dealt with legislature and administration to accomplish excellent legislative record on pending bills.
- Public transparency of procedures for making decisions based upon State mandates, particularly with respect to curriculum issues
- Various legislative actions
- They were finally able to change policy to include the gathering of data regarding the diversity and language competence of licensed professionals to help CA gather information it needs to assess its capacity to meeting the needs of a diverse state as CA. This for me was a significant accomplishment and long over due.
- Legislative action to meet substance use training
- Looking at competencies regarding MHSA agendas

Strategic Direction

- I am VERY impressed that BBS recognized the change in the state's population make up, worked closely with the mental health department to initiate the changes in mental health orientation. It is exactly the function of government to identify the needs in the society, and use its power and resources to reallocate social resources to meet the needs in the society. I think BBS takes on a hard but worthy task to exam the challenges that mental health faces, to be willing to look at and possibly change the licensing requirements. By doing so, CA is again going to lead the nation in making strategic changes in the landscape of mental health service.
- Occupational analyses of LCSW and MFT professions
- It's continued existence, which was threatened by Arnold.
- Creation of strategic action plan. I don't like this bureaucracy and what it brings but it is an accomplishment.
- Clarifying the BBS mission.
- It is also implementing changes required by the MHSA and looking to make the whole mental health field more user-friendly.
- Development of a strategic plan with measurable goals

Executive Officer

- Transition of new executive officer and office staff as well as new board members without apparent difficulty.
- Adjusting to a new executive officer.
- Executive director available to professions

Board

- Creation of committee meetings outside of the quarterly board meetings.
- Committees that are effectively meeting and fulfilling their own objectives;
- Board members that do their homework and are prepared for board meetings asking pertinent questions;
- Board members that are knowledgeable, committed, receptive and not defensive or attacking
- Reaching quorum on the board and working more efficiently on more issues with committee meetings and participation on a host of different significant issues
- Creation of sub-committees in key planning areas to advise the full board

Operational Improvements

- Improved enforcement actions.
- Expediting handling of complaints without losing attention to detail or issue of concern.
- More efficient investigation of consumer/client complaints

STRENGTHS (from stakeholders)

Strategic Direction

- The highly articulate director and staff have underscored the significance of changes within the mental health field.
- Willing to reach quickly to what is going on in the community. Focusing on the community practice to see what is going on and what is needed next. Fairly nimble.
- The power: BBS, as the regulatory body of mental health disciplines, has the power to set the standard, to force the changes that some people are not willing to make.
- The attraction of brain power: with its power to influence the direction of MH services in the whole state, the BBS can attract the best brain power on board to contribute to its mission. There are a lot of smart people in CA. When they see the BBS is working on a task that's consistent with their values and beliefs, they are willing to be part of the history making.
- Its new leadership style
- The BBS is flexible.
- Acts with apparent integrity.
- Honesty in its limitations, a true willingness to learn how to do it better.
- A sincere want to help the consumer and those of us it oversees.
- If limiting the number of licensed professionals is a goal - the organization is good at that.
- Safeguard the consumer through effective gate keeping of applicants and through enforcement
- Complete representation of all of the regulated professions on the board
- Respectful of the professions the BBS regulates
- The BBS is a gateway to the effective and consistent ethical delivery of mental health support in California. Vigilant oversight of state boards coupled with continuing educational requirements and offer Californians peace of mind as consumers

Outreach and Communication

- Reaching out to the people served by the members of the professions, and taking part in discussions on improving the workforce
- Honest open communication; Increased opportunities for public communication
- The newsletter and outreach to schools and consortiums
- Paul Riches and Mona Maggio are available and very knowledgeable
- Communication between the BBS and OER
- Executive is open to outside input
- The website and outreach.
- Actively seeks input from public as to how it can better link practice and reality.
- Newsletter to keep all pre-licensed & licensed members updated. Exec team willing to travel to meetings of educators, etc to gather input.
- Desire to inform and involve the public
- Willing to collaborate
- The beginning of reaching out to stakeholders to get input to change their exams.
- Easy access to current updates of the BBS on the web as well as remaining consistent in its policies and procedures.
- BBS can continue on its path to reach out to stakeholders, interns and students by being present for comments, suggestions and concerns by these groups and have discussions about these issues/concerns to implement understanding of why certain things need to be done a certain way, or how we might be able to effect a change to accommodate the

changing times. Being clear that we are advocates for the consumer is an important message to continue to carry to the professionals in the field.

Board

- The board meetings that are regularly held and open to the public are excellent
- Open meetings are a requirement of the BBS. It has an Executive officer who shares concerns of associations with Board so that it knows how the leadership evaluates the conduct and position of the BBS.
- There is good command from the board chair to give direction to the community concerns and proper feedback.
- Involved and committed board members
- Diversity on the Board and the ability for the Board and staff to represent the heterogeneous nature of California - and the active participation of the Board and staff in representing a voice for the professionals as well as the consumers/potential consumers
- The Executive Team
- The availability and enthusiasm of the Board.

Operations

- Staff cohesion and team spirit. Initiative in representing consumer rights and licensee (intern/trainee) standards.
- Consistent and thorough in its process and protocols.
- Productive.
- Competent and organized
- I don't know about the entire BBS system, but I've been very impressed with Ian Russ, who is in charge of the curriculum development committee.
- It seems to run fairly efficiently to me given a small number of staff members.
- Well organized
- In my experience, BBS staff have been responsive in a timely manner to my phone calls, and answered questions professionally.
- Good leadership

WEAKNESSES (from stakeholders)

Strategic Direction

- Because the BBS has to adhere to 'many masters,' it is necessarily constrained in that any decision will be unpopular to some segment of the population.
- The BBS is overstepping its bounds as defined by the state and the department
- Things seem a bit scattered. You don't get a coherent message regarding vision and mission.
- Its own history bureaucracy: for years, BBS was perceived to be an organization disconnected to its constituencies. People have developed the attitude to just try to avoid and tolerate BBS, rather than actively interface with and contribute to BBS.
- Programmatic constraints that delay the implementation of key initiatives that support a diverse consumer population must be met with the strategic planning for the future that is sensitive to the changing client base
- Having too many licensed therapists is not good for business or consumer protection.
- The board is too focused on providing sufficient numbers of licensees without regard to their quality. Increasing the number of licensees doesn't absolutely correlate with increasing quality of services.
- The board needs to be more active in promoting quality through the supervised experience requirements.
- Quality is diminishing among new interns and associates

Resource Limitations

- Budget and staff resources are limited
- Some budget restrictions on resources that could be used to improve program and services (more online access to records and payment)
- Like any government entity, staffing needs might be assessed.
- Probably a lack of funding. Most administrative help would shorten the wait times for records, call backs, etc.
- Small number of staff members.
- More staff able to review applications for a faster response. Graduates in MFT program cannot be hired until they obtain their Intern number. A long delay in obtaining their number jeopardizes their employment opportunities
- Phone and email contact with the organization is not at all smooth or prompt or very accessible. It may be due to lack of staff power. I am not sure.
- Limitations on resources available to staff (personnel hours) to respond to inquiry from constituents.
- The BBS is sloppy about informing licensees about changes.
- Limited staff.

Status Quo

- Its history of keeping status quo: for years BBS was behind the social changes, almost made itself a burden to people who were trying to make some differences for the society. As a result, the board has not attracted many critical thinkers, which in turn contributed to the status quo.
- The way things have been done for a very long time have placed constraints on the organization.
- The constraints that limit the effectiveness of the BBS are the governmental bureaucracy in which the board exists. It is sometimes frustrating to find that desired changes will take years to accomplish - by which time the needs of the consumers and the laws recently passed will require updated changes to those finally won. I also think precedence established by the professional organizations can complicate desired outcomes by their separate power interests.

Board Meeting Changes

- Separating the board meetings from the committee meetings puts an undue burden on those of us who want to attend but cannot afford the time and money to attend so many meetings. This limits the BBS' effectiveness in that it lowers transparency and prevents many of us from attending the way we used to be able to. Not having enough handouts at the meetings instead of expecting us to have the equipment and time and financial resources to printout voluminous amounts of materials is also an example of the BBS' lack of transparency.

Complaint Investigations

- It has been subject to the limited staff of the Office of Investigations and the limited knowledge of the individual deputies of the Attorney General in enforcing regulations.
- Cannot pursue incompetence or fraud unless there is a consumer complaint. Many individuals are not competent to practice or are in practice beyond their scope and competence. However unless a consumer finally makes the complaint nothing can be done

Demographics

- The BBS need to do a better job to support the expansion of a diverse qualified workforce to address the diversity of the state. The BBS has to be more willing to engage multicultural workforce and language access issues. BBS needs to be more risk taker and look to expand its role to work towards more competence and more capacity to serve a diverse CA population. Also, BBS needs to think more expansively about what 'protection of clients' means. I think it is too narrow. Protection of clients also should include doing no harm in regards to providing care that is culturally incompetent. I would like BBS to think harder about protection of English limited speakers and competencies for serving them. Think about issuing reports of current workforce and what are the current capacities for serving a diverse state like CA.
- Slow to consider need for revisiting ethnic counseling and how that impacts the mental health community at large.

Miscellaneous

- NO oversight of 'life coaches' Snaillike political process
- Levels of licensure would be beneficial. Ha
- It is a state agency. Lack of unanimity among those it serves.

- I.e., people's workday will be changed when the exam is changed and not everyone wants that.
- Difficulty reeducating ever-changing Board membership.
- Not enough input from the people served by the membership and the people they train
- There is confusion regarding the similarities and distinctions between LCSWs and MFTs and how the board perceives those similarities and distinctions. This confusion is manifested by the differences in requirements for ASWs and IMFs in supervision and for their supervisors.
- The board is not relevant to the many non-traditional, non-therapy services that its licensees provide. It needs to provide guidance to licensees in these areas.
- I'm going to answer this question by listing things I think the board needs to do that I don't see them doing: 1. Help licensed professionals in the provision of clinical supervision (other than requiring the clinical supervision training). How does the board help the professional apply their scope of practice language to the non-traditional mental health or non-mental health setting? How does the board help the clinical supervisor handle situations where they are supervising individuals who are assessed to be seriously deficient in the skills and ability to proceed? Other than terminating with this person...how does the board protect the community and the profession from this person who can move onto other licensed providers and eventually get that license? It happens all the time...I see it. If we assume there are more people coming to the table of the LCSW and MFT license examination who are younger with less personal and professional maturity and experience, how does the board interpret the impact of this? Acknowledging it and discussing it would be a start. How and when does the board decide to look at the LCSW and MFT license with distinction and how and when does the board look at the LCSW and MFT license as if they are the same? Examples: 1. 'Client contact' for MFT Interns is face to face and phone contact; for ASWs it is defined as face to face only. Why? 2. MFTs need a 6-hour clinical supervision-training course with a 6-hour update every two years. LCSWs need to take a 15-hour clinical supervision-training course only once. Why? 3. MFTs have to wait two years post licensure to provide clinical supervision, yet social workers can provide (to ASWs) upon licensure. Why? I could go on and on...it is this kind of stuff that makes it crazy making for those of us providing and those of us trying to guide others in the provision of supervision, given the boards mandates...this needs to be seriously address. How does the board help consumers be good consumers of therapy? Most consumers don't know an LCSW or an MFT from a BMW. Many agencies don't know the differences and what skills those differences bring...my agency equates an MFT with an MSW in their hiring process...and I've had plenty of conversations with MFTs who think they are social workers. This stuff matters in the working world. I think the board's thinking there is going to be a deluge of jobs for licensed professionals with the onset of the MHSA is a poor guideline to make decisions by, yet I keep on hearing board members talk about this as if it is a given and even if it were...increasing the licensed numbers doesn't absolutely correlate with increasing quality of services. Having too many licensed therapists is not good for business or consumer protection. I don't think the board looks for ways to see how consumers of therapy feel about therapy. There are ways of doing this other than just listening to the complaints of those consumer's who don't like their outcomes...but even here, does the board track these comments if it get too many 'unsatisfied' complaints on particular licensed persons? Worth looking at. How about surveying licensed professionals working with clients in a case management role? They have oversight of services and the skill to assess the therapeutic interventions. How about how licensed professional handle mandated reporting? My experience is the therapists don't appropriately interpret the law that says you are responsible to report a reasonable suspicion of child abuse. A 'reasonable suspicion' implies the therapist made an assessment. I can tell you stories of how therapists defer this part of their responsibility to protective services and the impact on the client. And if you know that protective

services is mostly staffed with non-professionals...talk about consumer protection needs!
I think not having a realistic perception of how practice gets done in various venues of service organizations. The board just did this survey and asked people 'what their primary source of work was' and a large percentage claimed private practice. This question didn't really clarify how people are practicing in the community... better questions would be, 'what is your current job title' if you work for an organization? If you are in private practice and work for an organization, how many hours do you do in both on a weekly/monthly basis?

OPPORTUNITIES (from stakeholders)

Licensing

- Evaluating the role of the Board in licensing individuals who provide any form of counseling to citizens. Clarifying the statutory provisions governing the BBS.
- Multiple Licenses beyond the clinical license for Social Workers
- I'm concerned with this new trend of 'life coaches' that are infringing upon the mental health community. It seems to me that these so-called life coaches are trying to be therapists without the training. To what extent can we as a profession educate the public about putting their lives in the hands of unqualified life coaches? I've seen some interviews with people who have been 'helped' by life coaches, and they feel they are now qualified to be life coaches themselves. This seems to me to be patently fraudulent.
- Get involved with 'coaching' practice...many who do not succeed with the licensing process turn to this as a way around oversight. Through legislation look closely at 'online' practice. With legislation look at the issue of DV and partner abuse reporting
- Integrate MFT, LCSW, and LPC professions into one profession (we all do the same thing) with specific specialty areas.
- LPT licensure. CADAC certification.
- Interpreting the proper use of licensure in the business world. Everyone knows the clinical license is used to promote and hire, even when the clinical skill is not the requirement. This is seriously problematic to our professions and to consumer protection. At the same time the process has been simplified to get the license, this behavior is increasing...that's scary!
- The move for the LPC license is not good for business as Ian Russ stated at the last committee meeting. It also sets up inequities in the market between the two licenses (LCSW and MFT). As written MFTs can be grandfathered in and advertise themselves as 'dually licensed' to a general consumer population who doesn't understand the distinction. The board received a letter from an MFT who discussed it from that direction. In addition, the LPC licensed has been presented twice with very weak reasoning. As I read the content; it sounds like people want to create another licensed because it's too much work to regroup when they decide they want a license to practice psychotherapy and they don't want to do the work to attain what already exists.
- Providing different levels of licenses.
- Continued growth in licensees. How to simplify the regulation of psychotherapists. How the public can understand the psychotherapist professions in choosing a professional.
- I think the board should be more involved in the title protection need for social work. It does impact their process (MFTs being equated with Maws is a problem, how many MFT interns are claiming hours based on social work scope of practice?)
- Perhaps assist students in finding internships to fulfill the necessary clinical hours?
- Licensing and preparing for licensing (educating students/paraprofessionals) more professionals of different languages/cultures to reach these populations that need more mental health practitioners

Outreach and Communications

- Regular email communications with the schools to make sure they are current in all of the changes that are made to forms, procedures, etc.
- Improve the interaction with the public at all levels and with all segments of the community. Assure that there is enough budget to pay for the very time consuming efforts that outreach to the community necessitates.

- Engaging multiple stakeholders to ensure that the exams and continuing education courses are constantly updated to reflect the kind of service needed. Less of an 'ivory tower' approach.
- The population that the members license it's members to serve are willing to assist in providing guidance as to what they need, the BBS needs to listen
- Continued outreach and response to the professional community and Associations.
- More online access.
- I think the board should create workgroups with people from the community to discuss issues that impact their process. I would love to be on a workgroup to discuss the application of scope of practice in non-mental health settings.

Demographics

- BBS is doing well to recognize the multicultural population of clients and servers in California; it is great to have Sean visiting school sites to welcome future therapists to licensing requirements.
- Meetings more with groups of 'other than majority' and staying up to date on California demographics and needs of these communities for mental health approach.
- Take a more active role and public role in increase workforce in mental health; work on state level efforts to reduce the barriers for lack of diverse workforce. Increase and include more work to move towards a more inclusive diverse workforce. BBS needs to be more willing to engage expansion of strategies to increase competence of licensed persons to work in a bicultural LEP speaking CA. We should be working toward adding training requirements for improving the cultural competence of providers. Work to increase CEU for training as part of maintaining our licensees.
- BBS should be prepared to look at mental health issues more broadly. It should be proactive in meeting the needs of cultural awareness, not only in the Latino, African/American quarters but in all cultural diversities coming to this country. It could possible institute change in the plague of the homeless by placing those who qualify in mental assistance programs or substance abuse programs that gets them off the streets. It could make known the presence of mental health facilities in underserved areas so that those who go without might take advantage of these professionals.
- By setting the 'bar' for mental health practitioners that further encourage expertise in understanding and supporting diverse cultures, languages, and socio economic barriers - poverty the more prepared our future professionals will be. The BBC is a powerful tool that can create waves that resonates with the educational institutions both within and outside of California.

MHSA

- MHSA provides BBS an unprecedented opportunity to take the leadership to reshape the landscape of MH service for the state of CA, as well as for the nation. This is the one and only chance that the MH service of the nation has to reform itself before it totally goes into bankruptcy. Implement the spirit of MHSA, be flexible, especially at the early stage, use the \$ that MHSA provides to force the changes---there will be a tremendous resistance in the MH profession, but BBS has the power to crush the resistance. Gather information from the best thinkers in the field in setting the strategic direction, look into the future, not the past. Do not let the bureaucracy overpower the innovation.
- Attention to the Mental Health Services Act and the possibility of changes to the educational requirements to prepare therapists to work in the public mental health setting.
- Dealing with changes in healthcare environment. Dealing with the push to regulate more 'professions'

Miscellaneous

- Staying focused on the consumer. Sometimes I don't feel there is enough thinking out of the box mentality and now that there is a formalized strategic action plan...I predict there will be even less opportunity for it. The board's process of becoming more organized through this plan serves mostly the board and not necessarily its consumers (the public consumers of therapeutic services and those who are in the process of providing such services). Other than board survival, I really don't see the need for the Public Relations push...again, is the board becoming more important than its clients? How does PR for the board help the consumer? I just don't see it.
- Increased staffing.
- Push MFTs and LCSWs towards recovery model

THREATS (from stakeholders)

Examination and Licensing

- If professional counselors are to become licensed in California, ALL of them should be required to take two California licensing exams, the written and the WCV. Many who have passed the counselor's national exam could not pass California's exams and expect to be able to practice in California anyway because they have passed their national exam. If they could not pass the California LCSW or MFT exam, then the public is not being protected. It makes no sense for them to be able to practice in California if they have not shown that they can pass the rigor of the California exams. If the Bus's mission is to protect the public, then they must do so by making sure that every licensee has passed the California exams and are competent to practice in California.
- Diluting the Professional Licensing with a Broad Spectrum Licenses such as the LPC that will clearly limit any focused treatment definition for enforcement.
- Concerns about the fairness of the exams. Increase in people who don't get a license but provide therapy type services.
- Portability and reciprocity are good ideas, but with them come turf and evaluation of equivalent education criteria. Who will do that? And who will be charged with responsibility for additional licensees if these issues become more acceptable within this state?
- Proliferation of licensees all offering the same services
- Portability and getting CA in synch with the rest of the country, especially if we expect more out-of-state licensees to come here and more Californians to move to other states.
- Nationalized testing. Possible license changes (secondary and primary clinical). However this could also be an opportunity
- As mentioned above, the issue of life coaches. Personally, I also believe that the BBS is being weighed down by more and more demands to increase the curriculum requirements that it might ultimately decide to go to three years of curriculum requirements, then eventually four years. If this happens, why should students go for an MFT instead of a Ph.D. or Psy.D? Because of the prestige in the profession, students may opt to go for a doctorate instead of an MFT if the MFT requirements begin expanding to look almost like a doctoral program's requirements.
- The changing nature of the healthcare work and workforce necessitate different approaches to licensure and that requires a very extensive outreach and a listening to stakeholders.
- If Lap's are given legislative licensure. Expansion of public mental health efforts requiring qualified professionals in this specialization
- Whether or not the LCPs move into CA. Who will they be overseen by?
- Certainly the onset of drug/alcohol certification without proper educational and training requirements. The fact that there are already professional licensure tracks that work with mental health concerns, drug and alcohol training is an augment to the intact professions of MFT/LCSW/LEP.
- Challenges in licensing competent professionals that are already licensed and have the content knowledge, skill and language proficiency to work with clients in a community that speaks a language other than English - but they can not grasp the complex nature of the English presented in the exam
- Federal loan forgiveness program doesn't recognize BBS exam. Aligning with national standards is important.

Licensing Factions

- Possible increase in the number of interns and licensees - this might make your jobs more difficult without additional staffing. Given that the Mental Health Services Act will continue to unfold and create more programs - your jobs may become more difficult, busy or complex due to the need for your oversight of additional work from the MHSA.
- I believe that there is unnecessary, but real and understandable, turf wars going on, under the surface and over the surface, among all mental health institutions, the BBS, CAMFT, AAMFT, NASCW, BOP, and Licensed Professional Counselors. This is only detrimental to the entire mental health community, whether professionals or consumers. BBS, at it straddles and represents three different mental health disciplines, should strive to be a beacon of collaboration and compromise among all various factions.
- Insufficient planning of new initiatives that address the growing need for mental health support in California may fall short if the BBS is not adequately planning and developing programmatically to meet the growing need.
- The need for mental health care in the public sector.

Status Quo

- The voices from the 'status quo' camp: 'we have the expertise and that worked in the past, why change?' There will be a lot of people protesting against the changes, as the changes that BBS is initiating will impact on their interest. Bureaucracy: it is a whole lot easier to be a bureaucrat than an innovative leader.
- Politics and a strong resistance to change
- Politics; Members of the professions' apathy
- Possibly political and/or financial
- Other than the typical delays caused by the governmental process, and the sometimes contentious reception of presented ideals by those stakeholders who want to maintain their separation and power, I don't know of any threats. Of course, there is always the budget to take into consideration, but that's another matter we cannot control.

Resources

- Funding cuts I'm sure.
- Budgetary constraints
- Funding
- Money
- Limited budget and staff time to really undertake the tasks at hand
- Maybe money.... not sure.

Sunset Legislation

- Unknown other than the possible sun setting of the BBS at some point in the future. I hope this never happens.
- Possible elimination by the Governor as a state board
- The Gov.'s threat to merge or in some other way dismantle Consumer Affairs Dept

Miscellaneous

- The ability to appoint highly competent members to the Board
- Medicaid/Medicare billing restrictions. Aging of professionals. Increased needs for bicultural professionals. Income disparity for professionals it oversees.
- Communication with constituents - the image is less adversarial than previously, but needs ongoing maintenance.

- 1. An emphasis on the 'business' aspect of this process, i.e. getting more licensed bodies than being more concerned that those bodies know what they are doing...and that's not just focusing on the testing process. 2. Continued lack of understanding or attention to how licensure is used in the non-private practice setting. I believe how we are 'recruiting' people to the exam, coupled with an exam process that isn't what it used to be (oral) effectively produces a less qualified pool. 3. Continued tracking of disciplinary actions and recognizing trends without looking for ways to proactively address/prevent it. If the current trend is an increase in disciplinary actions focused on 'character/relationship/boundary' issues...can we have conversations on how this could be happening? Maybe my previous statement of the increase of immature candidates has something to do with it? Maybe we could look at how we 'recruit' to the process? I was present for the first meetings the board had with the MFT schools and the Social Work schools...neither, I felt was too productive because when they talked to the academics...everything is so great! I can tell you looking at it from the 'internship placement world'...it isn't and I would apply that to both professions. How that impacts the boards process is foundationally important. Is this board moving toward having one license? Don't know if this is good or bad but sometimes I feel that the board's actions already see it this way.

BBS Organizational Effectiveness – Staff

Response Averages with an *asterisk have 'Don't Know' as the most or second most responses.

	Strongly Disagree				Strongly Agree	Don't Know	Response Average
1. The BBS' staff members clearly understand what is expected of them and their role in the organization.	7% (2)	4% (1)	15% (4)	33% (9)	33% (9)	7% (2)	3.88
2. The BBS has the resources to be effective.	4% (1)	4% (1)	30% (8)	33% (9)	22% (6)	7% (2)	3.72
3. The BBS strives for continuous improvement in all its organizational processes and programs.	4% (1)	0% (0)	4% (1)	48% (13)	44% (12)	0% (0)	4.30
4. The BBS' executive team effectively implements the policy directions of its legislative mandates.	4% (1)	4% (1)	11% (3)	33% (9)	41% (11)	7% (2)	4.12
5. The BBS conveys a clear sense of the organization's vision, mission, and core values.	7% (2)	0% (0)	11% (3)	41% (11)	41% (11)	0% (0)	4.07
6. Each BBS staff member's opinion is important to the organization.	7% (2)	15% (4)	19% (5)	15% (4)	44% (12)	0% (0)	3.74
7. The BBS is effective in accomplishing its goals and objectives.	7% (2)	0% (0)	22% (6)	33% (9)	37% (10)	0% (0)	3.93
8. The current BBS executive team composition is very effective.	4% (1)	4% (1)	15% (4)	48% (13)	30% (8)	0% (0)	3.96
9. The BBS' performance has been very effective for the State of California.	4% (1)	4% (1)	0% (0)	42% (11)	38% (10)	12% (3)	4.22

10. The BBS actively searches for opportunities to improve the organization.	4% (1)	0% (0)	0% (0)	30% (8)	59% (16)	7% (2)	4.52
11. The BBS' communication to the public is very effective.	4% (1)	4% (1)	37% (10)	26% (7)	30% (8)	0% (0)	3.74
12. Communication between the BBS and outside stakeholders, including Legislators and affiliated associations is very effective.	0% (0)	4% (1)	11% (3)	22% (6)	19% (5)	44% (12)	4.00
13. The BBS' executive team has an effective internal relationship that works well for the organization.	7% (2)	4% (1)	22% (6)	33% (9)	33% (9)	0% (0)	3.81
14. The BBS is proactive in anticipating changes, identifying opportunities, and pursuing them.	4% (1)	4% (1)	7% (2)	41% (11)	37% (10)	7% (2)	4.12
15. The BBS effectively addresses the performance of its executives.	0% (0)	11% (3)	7% (2)	37% (10)	15% (4)	30% (8)	3.79*
16. The BBS has a clear vision for the future of the organization.	0% (0)	4% (1)	8% (2)	38% (10)	42% (11)	8% (2)	4.29
17. The BBS is a model State of California department.	4% (1)	7% (2)	22% (6)	33% (9)	26% (7)	7% (2)	3.76
18. The BBS' executive team members can be counted on to fulfill their commitments.	4% (1)	4% (1)	7% (2)	26% (7)	48% (13)	11% (3)	4.25
19. The BBS is effective in holding its employees accountable for their work in the organization.	7% (2)	7% (2)	0% (0)	48% (13)	37% (10)	0% (0)	4.00
20. The BBS' executive team is effective in directing the organization.	4% (1)	4% (1)	7% (2)	56% (15)	30% (8)	0% (0)	4.04

21. The BBS is effective achieving its vision and mission.	4% (1)	4% (1)	11% (3)	41% (11)	41% (11)	0% (0)	4.11
22. The BBS knows how to get things done.	4% (1)	4% (1)	4% (1)	41% (11)	44% (12)	4% (1)	4.23
23. The BBS is an organization that operates with integrity.	7% (2)	0% (0)	7% (2)	22% (6)	63% (17)	0% (0)	4.33
Effectiveness Index							4.04
					Total Respondents		27

STAFF – ACCOMPLISHMENTS, STRENGTHS, WEAKNESSES, OPPORTUNITIES, THREATS

ACCOMPLISHMENTS (from staff)

Outreach and Communication

- Development of Student Outreach Program
- Consumer Outreach;
- Created the position of Outreach Coordinator to more effectively communicate with the public and licensees.
- Public outreach to schools
- Introduced outreach program.
- Implemented the out reach program successfully.
- Development of new outreach program
- The accomplishments that I see and I been her for over 8 years are the improvement of the Board public awareness by publications, websites, School site with BBS Staff and etc.
- Established a better public presence with the professions and built open lines of communication.
- Increasing its communication with stakeholders
- New Newsletter
- Development of new communication vehicles
- Good website; news letter updates

Internal Operations

- Effective restructuring of committees
- Staff has taken training courses to improve, and staff continues to learn more about what the BBS does.
- Increased staff training opportunities.
- Rebuilt and retrained a staff that works well together as a team
- Increasing staff capability and performance
- Increased staff morale
- Changing the office culture to one that is much more positive
- Managed major transition (new executive leadership, new board, new physical location, new staff) effectively.
- The BBS has had turn around in positions and they have made a great effort to fill those positions in a timely manner. This helps the process continue to flow, keeping the applicants heading in the right direction. Basically not affecting the help given to applicants.

Strategic Direction

- Effective changes to the law;
- Development of strategic plan and initiation of process to accomplish goals outlined in the strategic plan.
- Establishing the organization as a voice in the mental health profession
- Developed a public policy perspective emphasizing increasing access to services.
- Created openness to change and progress within the organization.

Application Processing Time

- Significant improvements in licensing operations
- Process time for different applications, forms, and requests.
- Decrease in application processing time
- Reduced the application processing times.
- Improved application processing time
- The Board has managed to process applications in a timelier manner
- Streamlining the application process
- Better Customer Service

Enforcement

- Increased enforcement staff production.
- The Enforcement unit is operating effectively; all of our statistics are improving.

STRENGTHS (from staff)

Staff

- Effective management team and staff.
- Staff are provided with the resources to do their jobs effectively;
- High expectations for staff performance;
- Dedication of staff in doing their work.
- Its staff. Seasoned and newly hired staff are knowledgeable in their duties. Staff works well together to get the job done and done correctly.
- Team atmosphere
- Experience and knowledge of staff
- Friendly staff that work hard to support the BBS and its mission.
- A knowledgeable, motivated staff;
- Staff is helpful and work well together
- The staff makes themselves accessible to the consumers and is very customer service oriented.
- Solid working relationships among certain people help the Board to run smoothly. A sense of solidarity seems to keep morale up among certain people and units.
- The staff!
- The knowledge of the staff members. The strength of the team members that act as a team and help one another out. The patience of the workers.
- Strong staff team. Commitment to serving the public.
- Teamwork
- Comfortable positive workplace

Strategic Direction

- The Board understands that it is in the business of public service.
- Compelling vision for the board. Good board members. Openness to input from public and stakeholders. Commitment to positive change. Better (and still improving) public image.
- Willingness to listen to stakeholders and value their input
- Expansion of our mindset regarding our 'consumer protection' role
- Clear vision and mission

Leadership

- Strong leadership
- Good executive officer.
- Effective management that is open to suggestions and recognizes staff accomplishments.
- They have a management team that is forward thinking and always looking for opportunities for improvement.

Communication

- Communication (2)
- Strong communication,
- The customer service with the prompt responses via the phone and through email.
- The communication staff has with public phone calls and public organization.

Miscellaneous

- Keeping up to date with technology.
- Organization (2)

WEAKNESSES (from staff)

Staff shortages, workload, utilization

- Staff is overworked, but management continues to assign projects. Staff morale is low due to an overwhelming workload.
- We are short staffed in all units
- Limited Staff (2)
- Ability to keep staff for a long period of time
- Personnel overturn. Management has had some staff change positions several times. This results in a disruption to the workflow and repetitive training. These changes seem to be made on an urgent basis without having been thoroughly discussed with the affected staff persons and unit members to determine if it would be a good fit for all involved. So many changes were made in such a short period of time we lost track of who performs what activities.
- Currently our resources are not being fully utilized. Staff understanding of new regulations.
- The same people get recognition all of the time, the 'golden people.' Rather than promote based on merit, skill, and knowledge, promotions are given as rewards, or to move people around. Hiring friends seems to be the practice here, and it is not entirely effective. People who know how to get things done should be hired.
- Needs more input by staff that has been directly involve with each area of the Board. We have highly experienced staff that been with the Board for years whose experience would greatly benefit the Board Strategic Planning.
- Inadequate management resources (too many staff, not enough supervisors)
- Attendance, too many chiefs, not enough Indians, phone calls, ignorance
- Newness of executives and board members. Two years of perpetual transition created change opportunities but also undermined needed ongoing leadership and vacated almost all of the institutional memory.

Application and website constraints

- The Board's web site is not very user friendly. I still have problems locating information.
- Technological constraints, i.e., current inability to accept renewals, and other applications needing to be accompanied by fee, online.
- The applicants not understanding the regulations or steps for the process. The wording tends to be confusing for a majority of applicants. It would be nice to have a section of the website available for people coming from out of state we do get a lot of calls and emails about that. Clarifying the requirements or steps that they need to take. It would also be nice for the supervisors of interns to have an area to go to too. Large numbers of calls coming into the BBS sometimes causing delays in returning calls in a timely manner.

State Agency realities

- Political environment that questions and resists innovation. Rapidly deterioration of support services from the Department of Consumer Affairs. Lack of leadership at DCA.
- Just the general constraints of being a state agency (a lot of things aren't under our direct control)
- A lack of certain resources, but this is more a byproduct of being a public agency
- Budget constraints

Use of outside testing vendor

- Use of an outside testing vendor, with whom communication is not direct
- The Dept. contracted testing co. that administers the Board's exams

OPPORTUNITIES (from staff)

Application and Testing

- Credit card payment
- The Board should offer the option to renew licenses online using a credit card, or file new applications online using the credit card methods. Also, we should have the option available for people to track their applications through our website.
- Making the application process an easier and a process that is clear to the trainees, interns, applicants, & supervisors as well as some of the associations that tend to give out conflicting information than what is written in the Statutes and Regulations.
- On line testing in and out-of-state.

Strategic Direction

- Changing technology.
- New technologies create opportunities to deliver better services and communicate more effectively. Chance to build a model state agency.
- A willingness to re-imagine what it means to be the Board of Behavioral Sciences; the organization should not be afraid of change

Staffing

- Motivate the staff more by promoting, pushing for more training, schooling and etc. I see more staff looking for new jobs. Our people contact is great but I outlook on our staff is not. To achieve our mission we need staff that cares not staff that just want to be here!
- Hire more Indians + unit meetings, communication, keeping current employees, no stepping up and out

Mental Health Services

- Changes related to the Mental Health Services Act (Prop. 63)
- Massive change is likely in the healthcare delivery system. Mental health services act will transform delivery of mental health services.

Miscellaneous

- Changing demographics of California
- Another BBS location, like Southern California

THREATS (from staff)

Staffing

- Staff turnover (2)
- Board staff turnover could severely damage the Board's ability to achieve our goals. The people hired aren't exactly kept informed or brought up-to-date as to what is expected or what should be done relating to the strategic plan.
- State Budget-possible staff/position losses, due to cuts in our budget as in previous years.
- The need for more employees to help with the service that the BBS would like to maintain for the applicants.
- Post-and-bid hiring system

Examination Vendor

- Who the Dept. contracts with to provide our examination. This will impact if we will be able to provide our examination in other states and/or via on line.
- I see our threats to the Board now and later will be Thomson Prometric who gives our Board a Bad name by not providing our clients with professionalism and care. This I truly believe will impact the BBS over the next five (5) years!
- Continued problems with examination program.

Sunset legislation

- Sunset of BPPVE
- The possibility of sunset legislation. The sunseting of the Bureau for Private Postsecondary and Vocational Education.
- Sunset Review (?)

Political Environment and Budget

- Political climate
- State budget (2)
- Efforts to merge with board of psychology. Continued pace of change will overwhelm the board's ability to adapt. Policy and operational ambitions may outstrip staff's ability to perform. Continued deterioration in DCA services to the board.

Miscellaneous

- Flooding in Natomas

*CALIFORNIA STATE
BOARD OF BEHAVIORAL SCIENCES*

STRATEGIC PLAN



*STRONG MINDS,
STRONG LIVES,
STRONG FAMILIES
THROUGH QUALITY
MENTAL HEALTH*

August 2005

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Vision

Strong Minds, strong lives, strong families through quality mental health professionals

Mission

To protect the well being of Californians by setting standards for mental health professionals through effective communication, education, examination, licensing and enforcement.

Values

The BBS Way:

*Be a person of Integrity
Be Professional and Dedicated
Serve with Excellence*

Executive Officer's Message

Strategic planning guides organizations through change. The Board of Behavioral Sciences (board) strategic plan is intended to steer the organization through the next five years. Those years are certain to be filled with many changes both foreseen and unforeseen that will challenge the board to grow and adapt as an organization. However, this plan and the ongoing planning process will allow the board to emerge from these changes as a more effective public protection agency.

Among the challenges we foresee are:

- Ongoing state budget deficits,
- 3 million more Californians,
- Increasing demographic diversity,
- Hundreds of millions of new dollars for public mental health programs, and
- Over 25,000 new licensees and registrants.

By themselves, these are sufficient to challenge the board, but we expect to encounter unforeseen challenges of equal or greater magnitude. Unforeseen challenges make the strategic planning process more important than the plan itself. The process to build this plan started from the ground up with participation from board stakeholders, board staff and board members. The resulting plan is a collective vision to guide the board. That vision will remain our touchstone as the board shapes the strategic plan in the coming years to manage and incorporate change.

Just as certain as accelerating change, is the call for greater accountability. Aside from the certainty of the Sunset Review process, the board expects ongoing questions regarding its effectiveness as a public agency and challenges to the structure of professional regulation. This strategic plan provides a framework for accountability by establishing specific, measurable objectives that incorporate both existing operational mandates and operational innovations. The board's performance will be assessed, both internally and externally, by its ability to achieve these objectives.

There is no simple formula for success, and the faithful achievement of these objectives alone will not make the board successful. Rather, our success will be determined by preserving the unflinching self criticism, open processes, and collaborative spirit that fueled the creation of this plan.

Paul Riches
Executive Officer
July 2005

Goals

- **Communicate** effectively with the public and mental health professionals.
- **Build an excellent organization** through effective leadership and professional staff.
- Promote **higher professional standards** through enforcement and public policy changes.
- Advocate for **increased access** to mental health services.
- **Utilize technology** to improve and expand service.
- Maximize the **efficiency and effectiveness** of the Board's resources.

Goal 1: Communicate effectively with the public and mental health professionals.

Outcome: Informed mental health consumers and professionals

Objective 1.1

Provide six educational opportunities for stakeholders and staff on BBS budget by July 30, 2006.

Objective 1.2

Distribute a handbook outlining licensing requirements by December 31, 2006 to 100% of California schools offering qualifying degrees

Objective 1.3

Distribute consumer publication regarding professions licensed by the Board by June 30, 2007.

Objective 1.4

Achieve 60% on customer service satisfaction surveys by June 30, 2008.

Objective 1.5

Participate four times each year in mental health public outreach events through June 30, 2010.

Objective 1.6

Review and revise website content four times per year.

Goal 2: Build an excellent organization through effective leadership and professional staff.

Outcome: An excellent organization

Objective 2.1

Meet 80% of training goals identified in IDPs by June 30, 2006.

Objective 2.2

Reduce average application processing time by 33% by December 30, 2006.

Objective 2.3

Increase staff training hours by 15% by June 30, 2010.

Objective 2.4

Joint participation by executive staff and board members in 20 external events (non-board meeting) by June 30, 2010.

Goal 3: Promote higher professional standards through rigorous enforcement and public policy changes.

Outcome: Higher Professional Standards

Objective 3.1

Complete revisions for continuing education laws by December 31, 2006.

Objective 3.2

Establish a standard to measure quality of continuing education by June 30, 2007.

Objective 3.3

Complete 12 substantive changes in laws and regulations by January 1, 2008

Objective 3.4

Advocate for five laws that protect the privacy of client/therapist relationships by December 31, 2010.

Objective 3.5

Provide four educational opportunities for DOI and AG regarding BBS and it's licensees by June 30, 2008.

Objective 3.6

Reduce time in which BBS cases are investigated and processed by DOI and AG by 30% by June 30, 2010.

Objective 3.7

Complete annual review of examination program and report the results at a public meeting.

Goal 4: Advocate for increased access to mental health services.

Outcome: Increased Access to Mental Health Services

Objective 4.1

Participate in 15 public policy forums throughout the State addressing access to mental health services by June 30, 2010.

Objective 4.2

Develop 4 proposals related to behavioral science licensing law that address delivery of services to consumers in light of demographic changes in both the general and licensee populations by December 31, 2007.

Objective 4.3

Advocate for 5 laws that expand access to mental health services by June 30, 2010.

Goal 5: Utilize technology to improve and expand services.

Outcome: Faster, more efficient service

Objective 5.1

Provide the ability to accept electronic payments by June 30, 2008.

Objective 5.2

Process 70% of all renewal applications on-line by June 30, 2009.

Objective 5.3

Process 33% of all new applications on-line by June 30, 2010

Objective 5.4

Provide the ability to check the status of all applications online by June 30, 2010.

Goal 6: Maximize the efficiency and effectiveness of the Board's resources.

Outcome: Efficient and effective Board

Objective 6.1

Increase licensing staff productivity 13% by June 30, 2010

Objective 6.2

Increase enforcement staff productivity in processing consumer complaints 29% by June 30, 2010.

Objective 6.3

Increase examination staff productivity 15% by June 30, 2010.

Methodology

The strategic plan initiative began by resolving the acceptable methodology to employ during the process. The BBS executive management determined a bottoms-up process would best serve the needs of the organization. The bottoms-up process 1) captured a wealth of knowledge possessed by BBS staff, 2) provided a strategy for obtaining ownership, and 3) crafted a strategic direction for the BBS Board acceptance and validation. The process provided the opportunity for all BBS staff in multiple work sessions that ultimately would frame the strategic plan. In addition, the purpose for including all staff members was to ensure the robustness of the data collected, achieve buy-in for final product, and the plan's actualization.

The state strategic planning guidelines formed the model adopted by the BBS executive management in crafting their strategic plan. A series of several work sessions with staff members was scheduled to craft the strategic plan. The BBS executive management identified key stakeholders that were invited to complete and return a SWOT questionnaire. All SWOT questionnaires were returned to the consultant to ensure genuineness of responses and confidentiality. The SWOT data was reviewed initially for completeness and usefulness. The consultant categorized responses by themes under each major heading of strengths, weaknesses, opportunities and threats (i.e., SWOT). Some editing for syntax was provided; otherwise the SWOT comments were unaltered. The aggregated SWOT data contained no identification to a single individual so as to ensure confidentiality and that the data would stand on his own merits.

A draft of the SWOT data with themes was distributed to BBS staff for their review prior to the initial work session. Through Multiple iterations and prioritization exercises the SWOT data was used in crafting the strategic direction and goal setting for BBS. As a result, critical themes were identified that represent significant challenges for BBS. The goals and critical themes are identified on the following pages.

The scanning activity was designed to assess current position and status of BBS while determining the impact of critical issues in the future. Also, during this time the BBS staff began crafting new strategy framing the future direction for the organization. The BBS staff crafted vision, mission and values that best represent the future direction that will guide the organization. Other elements of new strategy included goals and objectives. The BBS staff then reviewed the themes from the SWOT data for congruence and goal setting. BBS staff members crafted initial goal statements for the prioritized themes that were reviewed, edited and refined for submission to the Board. Also during the working session themes for strategic objectives were culled from the SWOT analysis and session discussions.

Strategic objectives were crafted and refined by the BBS staff that addressed the logistics of how the goals adopted were to be achieved. The objectives met the criteria set forth by the SMART Model that includes: Smart, Measurable, Aggressive but Attainable, Results-oriented and Time-bound.

The final goals and objectives from the work sessions are presented in the GOOM Model. GOOM is an acronym that represents the Goal, Outcome, Objective and Measure. A specific outcome is identified for each goal while each objective contains a specific measure. The format is designed for assessing performance and accomplishments of the key elements in the strategic plan.

A draft of the key elements crafted to date was prepared for review by the Board at their May 2005 meeting. The Board reviewed and edited key elements of the draft strategic plan.

Goals with Themes from SWOT* Data

Goal 1: Communicate effectively with the public and mental health professionals

- Responsive Communication
- Lack of External Awareness
- Public Outreach
- Political Climate

Goal 2: Build an excellent organization through effective leadership and professional staff.

- Effective Leadership
- Quality, Dedicated Staff
- Exercise of Authority
- Management
- Board Effectiveness
- Employees becoming more skilled because of training
- Workforce

Goal 3: Promote higher professional standards through rigorous enforcement and public policy changes.

- Evaluation and Licensing Issues
- Ensure Quality Control
- Stakeholder Support
- Mission Driven
- U.S. Patriot Act

Goal 4: Advocate for increased access to mental health services.

- Access to External Services
- Managed Care Referrals

Goal 5: Utilize technology to improve and expand service.

- Technology Deficit
- Technological Opportunities

Goal 6: Maximize the efficiency and effectiveness of the Board's resources.

- Resources
- Budget and Personnel Constraints
- Resources
- Resource Constraints

*SWOT: Strengths, weaknesses, opportunities and threats

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