



1625 North Market Blvd.  
Suite S-200  
Sacramento, CA 95834  
(916) 574-7830  
TDD (916) 332-1700  
Fax (916) 574-8625  
[www.bbs.ca.gov](http://www.bbs.ca.gov)

## MEETING NOTICE

### Policy and Advocacy Committee October 5, 2007

Waterfront Plaza Hotel  
10 Washington Street  
Oakland, CA 94607  
(800) 729-3638

**8:30 a.m. – 12:00 p.m.**

- I. Introductions
- II. Review and Approval of the July 13, 2007 Policy and Advocacy Committee Meeting Minutes
- III. Discussion and Possible Action Regarding Recommended Proposals for Technical Clean-up of BBS Statutes
  - a. 128.5 (b) Reference to Board of Behavioral Science Examiners
  - b. 4980.30 MFT License Requirement
  - c. 4981 Obsolete Reference to LEP Statutes
- IV. Discussion and Possible Action to Repeal Sections 4996.20 & 4996.21 Relating to Supervised Experience for Licensed Clinical Social Workers
- V. Review and Possible Action to Recommend a Position on Senate Bill 963 (Ridley Thomas) Regarding Sunset Review
- VI. Review and Possible Action Related to Advertising Guidelines
- VII. Legislation Update
- VIII. Rulemaking Update
- IX. Suggestions for Future Agenda Items
- X. Public Comment for Items Not on the Agenda



Arnold Schwarzenegger  
Governor  
State of California  
State and Consumer  
Services Agency  
Department of  
Consumer Affairs

*Public Comment on items of discussion will be taken during each item. Time limitations will be determined by the Chairperson. Items will be considered in the order listed. Times are approximate and subject to change. Action may be taken on any item listed on the Agenda.*

THIS AGENDA AS WELL AS BOARD MEETING MINUTES CAN BE FOUND ON THE BOARD OF BEHAVIORAL SCIENCES WEBSITE AT [www.bbs.ca.gov](http://www.bbs.ca.gov)

NOTICE: The meeting facilities are accessible to persons with disabilities. Please make requests for accommodations to the attention of Christina Kitamura at the Board of Behavioral Sciences, 1625 N. Market Boulevard, Suite S-200, Sacramento, CA 95834, or by phone at 916-574-7835, no later than one week prior to the meeting. If you have any questions please contact the Board at (916) 574-7830.

## MEETING MINUTES

**DRAFT**

### Policy and Advocacy Committee July 13, 2007

Burbank Airport Marriott Hotel and Convention Center  
2500 Hollywood Way  
Burbank, CA 91505

#### **MEMBERS PRESENT**

Gordonna DiGiorgio, Committee Chair, Public Member  
Dr. Ian Russ, MFT Member  
Karen Roye, Public Member  
Renee Lonner, LCSW Member

#### **STAFF PRESENT**

Paul Riches, Executive Officer  
Mona Maggio, Assistant Executive Officer  
Kristy Schieldge, Legal Counsel  
Christy Berger, Legislation Analyst  
Cassandra Kearney, Regulatory Analyst

#### **MEMBERS ABSENT**

None

#### **GUEST LIST**

On File

### **I. Introductions**

Gordonna DiGiorgio, Committee Chair, called the meeting to order at 9:29 a.m. Committee members introduced themselves in place of roll, and a quorum was established. Staff and audience members also introduced themselves.

### **II. Review and Approval of the April 4, 2007 Policy and Advocacy Committee Meeting Minutes**

Ms. DiGiorgio referred to page 3, paragraph 5. The sentence should begin as *Mr. Riches*.

KAREN ROYE MOVED, DR. IAN RUSS SECONDED, AND THE COMMITTEE CONCURRED TO APPROVE THE APRIL 4, 2007 MEETING MINUTES AS AMENDED.

### **III. Review of Requirements Relating to Marriage and Family Therapist Trainee Agreements**

Ms. DiGiorgio reported that previously there had been written agreements between schools and sites where trainees earned hours of supervised practicum. California Association of Marriage and Family Therapists (CAMFT) has asked the Board to consider collecting the trainee's written agreement between the school and work site when a person applies for licensure.

Paul Riches explained that the law requires the practicum site and university to have a written agreement regarding students practicing at the sites. CAMFT and other agencies have requested that the Board begin collecting these agreements. The Board has received a number of comments regarding inadequate communication between trainee work sites and schools, lack of oversight, and about problems with the effective assessment of trainee performance. The greater issue is how to ensure that the components of the agreement are being followed.

Dr. Ian Russ stated that this is a good idea, and asked what criteria will be required. Mr. Riches responded that the law outlines what must be contained in the agreement.

Mr. Riches added that the agreements would become part of the application packet, and adding more document requirements will create more deficiencies. One item to consider is at what point should the document be submitted. There is a burden maintain these records for a long period of time.

Dr. Russ stated that the document should be submitted right away so that if there is a problem with the agreement or if the trainee is deficient, the trainee will know right away. Since trainees are not required to apply to become a trainee with the Board, as Christy Berger explained, then the agreement should be submitted with the application for internship.

Mr. Riches added that a 4-way agreement exists, which is a model agreement that schools and agencies through the consortium created and it utilized. Due to schools being out for the summer months, board staff was not able to obtain a copy of the model agreement.

Ms. Roye encouraged communication between the Board and the schools and random checks so that schools are aware of their responsibilities to students. She also encouraged random checks on schools to ensure that they are meeting those responsibilities.

Charlene Gonzales, Department of Children and Family Services (DCFS), stated from her experience that not all schools are on the same page. There needs to be a collaborative effort, and all three parties must be responsible: BBS, the schools, and the students. Students have contact Ms. Gonzales stating that the schools are not placing the students, when it is the schools responsibility to place them. Some schools tell students that DCFS is not an approved agency to acquire hours, some schools say otherwise. The dialogue is breaking down and the agencies, where the experience is gained, are left out of the dialogue.

Ms. DiGiorgio asked Ms. Gonzales if she had any suggestions. Ms. Gonzales responded that the Board's suggestion to have one contract for all the schools is a good recommendation.

Mr. Riches stated that from comments he received, a linkage between the schools and agencies is needed.

Dr. Russ asked if this should be addressed in the MFT Education Committee meeting.

Ms. DiGiorgio responded that this is part of the learning experience. She had to find her own placement during her practicum.

Renee Lonner agreed that some are told to find their own placement.

Cathy Atkins, CAMFT, stated that the original issue of minimum requirements is a procedural issue. The next issue is to determine if the sample provided is going to be the boilerplate. She encouraged the 4-way agreement as opposed to the sample provided. The issue regarding communication between the schools and agencies may not be solved by the BBS.

Dr. Russ stated that he sees no reason as to why the MFT Education Committee cannot detail the requirements and the terms of relationship.

Mr. Riches responded that this could be done through regulation, but we could begin by articulating the expectations and drawing attention to the issue that way. If that fails, then revisit and take another look at more approaches.

Ms. Roye responded that this is a policy consideration to open up dialogue with schools.

Dino Koutsolioutsos, Pacific Oaks College, stated that there are about 70 schools and a thousand different agencies. Therefore, some flexibility is needed in this policy. He welcomes a template from BBS outlining the minimum requirements. Some schools and agencies will have their own additional requirements. The MFT Education and Policy and Advocacy Committees should work together on this. Some schools are very selective regarding the agencies they collaborate with, and some are very open; either way is ok.

Dr. Russ agreed with Mr. Koutsolioutsos. In the end, the school is responsible for the education.

Mr. Riches clarified the two separate issues relating to qualifications: 1) the minimum requirement of the practicum, which is a curriculum requirement (coursework), and an element of that coursework is placement, and 2) what hours of pre-degree experience are counted as supervised experience. Those two issues overlap because the practicum hours count.

Ms. Atkins stated that it would be a good idea to put the minimum requirements in clear writing. This may be a solution to some of the communication breakdown because the agencies would not be put in the position of interpreting it for the agencies or for the students.

DR. IAN RUSS MOVED TO RECOMMEND TO THE BOARD THAT: 1) STAFF DEVELOP A NOTIFICATION TO THE SCHOOLS REGARDING THE MINIMUM REQUIREMENTS OF STANDARD AGREEMENT, 2) THE MFT EDUCATION COMMITTEE EXAMINE THE DETAILS REGARDING TERMS OF THE REQUIREMENTS. RENEE LONNER SECONDED, AND THE COMMITTEE CONCURRED.

#### **IV. Review of Requirements Relating to Employment Documents for Marriage and Family Therapist Interns**

Ms. DiGiorgio gave a brief background regarding requirements for licensure as a marriage and family therapist (MFT).

Business and Professions Code (BPC) Section 4980.43(b) requires all hours of experience gained by interns to be obtained as either an employee or volunteer, and prohibits experience from being gained as an independent contractor.

The California Association of Marriage and Family Therapists (CAMFT) has asked the Board to consider collecting W-2 forms as evidence that an intern was employed while gaining the required hours of experience. If a person was employed as a volunteer, a letter of verification from the employer would be required. These documents would be collected upon application for licensure.

Due to frequent calls from interns asking whether they could be employed as an independent contractor, BBS staff and CAMFT believe that interns are frequently employed as independent contractors, and the Board currently has no way of verifying this information. To do so would require a legislative change.

Mr. Riches stated BBS has 3 separate practice acts, and one statute has language stating that BBS has the authority to collect these documents and the other does not.

Kristy Schieldge, BBS Legal Counsel, recommended that there must be a procedure in place to process the W-2 and shred it immediately due to its confidentiality.

Dr. Russ asked what other means of verification can be used?

Mr. Riches responded that there are self-certifications. The responsibility statement requires a signature, stating that they understand the laws and that they are compliant with the laws. The verification of hours that requires a signature stating that the hours have been completed. An independent certification, however, is one which cannot be assumed as compliant.

Dr. Russ asked if a random audit would be necessary.

Mr. Riches responded that BBS continues to have a 15% fail rate on CE audits. The W-2 is an incontrovertible proof of employment, and the procedures to process and shred already exist.

Dr. Russ and Ms. DiGiorgio expressed that they agree with collecting W-2s and would like to see consistency in the practice acts.

Ms. Schieldge stated that a statutory change is required to do this.

Ms. Atkins encouraged the collection of W-2s, as people do not always understand the difference between working as an employee or as an independent contractor. But they understand the W-2.

**DR. IAN RUSS MOVED, GORDONNA DIGIORGIO SECONDED, AND THE COMMITTEE CONCURRED TO DEVELOP A STATUTORY PROPOSAL TO COLLECT W-2S AS**

EMPLOYMENT VERIFICATION FOR MFT INTERNS FOR PRESENTATION TO THE BOARD.

**V. Discussion of Professional Experience in the Armed Forces As a Qualification for Licensure as a Marriage and Family Therapist or Licensed Clinical Social Worker**

Ms. DiGiorgio reported that staff recently became aware of a statute (Business and Professions Code Section 35) that took effect in 1994 which requires the Board to adopt regulations pertaining to methods of evaluating applicants who have received education, training or experience while in the armed services. This statute appears to be pertinent to applicants for Licensed Clinical Social Worker (LCSW) or Marriage and Family Therapist (MFT) licensure. Staff is not aware of any graduate programs run by the military, however, supervised experience obtained in the armed services would need to be considered.

Staff is requesting feedback from the Committee regarding what would be appropriate for the Board to accept in terms of experience gained in the military for MFT and LCSW applicants.

Dr. Russ requested staff to conduct research with all military branches, including the National Guard.

Janlee Wong, National Association of Social Workers (NASW), supports more veterans becoming licensed. However, he is concerned that the military does not always practice the best possible mental health care, and concerned about the quality of experience gained in that setting.

Dr. Russ replied that the Board cannot regulate the military and their policies; however, people are receiving experience in the military. This is necessary to do.

Mr. Riches stated that a motion was not necessary. Staff will do further research and bring information back to the Committee.

*The Committee adjourned for a break at 10:35 a.m.*

*The Committee reconvened at 10:50 a.m.*

**VI. Discussion of Board Member Qualifications**

Ms. DiGiorgio briefly presented the current qualifications required to become a Board member. The Board's policy focus has expanded significantly in recent years to include public mental health practice. This broadened focus recognizes the changing practice patterns with more and more of the board's licensees operating in public mental health settings. Historically, significant numbers of LCSWs worked in public mental health settings, while MFTs were overwhelmingly in private practice. In recent years, the number of MFTs working in public settings has increased dramatically. The shift in board focus and practice reality raises a question regarding the qualification criteria for licensed board members. Should the current statutes be amended to require one or both the MFT and LCSW board members to have experience in public mental health practice?

Mr. Riches stated that he does not want to constrain the Governor's ability to make appointments. There is a need for a balance getting people with public setting backgrounds while not making the qualifications too prescriptive.

Ms. Atkins stated that this would be ideal for a well-rounded Board. However, CAMFT's position is that they would prefer the best person serve on the Board.

Ms. DiGiorgio and Ms. Lonner agreed with Ms. Atkins. Ms. Lonner added that it might be a mistake to amend the current statute.

Dr. Russ stated that an issue would be defining public mental health. This is the right direction, however, this may not be the way to go about it. Dr. Russ made several suggestions: 1) set time aside each year for the Board to meet with consumers of mental health and get them to the Board meetings so that the Board gets an understanding of the people the agencies are providing services to, 2) structure meetings to encourage involvement of community agencies, and 3) invite Department of Mental Health to meetings to provide information to conduct diversity conferences. Dr. Russ also stated that public agencies should be notified of upcoming meetings in their areas.

Ms. Roye stated that the Board should define itself through its strategic plan and its work to ensure that a robust understanding of public mental health is part of the future. The Board's responsibility is to ensure that all of the public and its needs are represented; that is the direction of the strategic plan.

Mr. Wong agreed with Dr. Russ' suggestions and that the Board should educate the public about the Board and about appointment to the Board.

Dr. Russ encouraged staff, when talking to legislators, to encourage public member appointments of family members of mental health consumers.

No action was taken.

## **VII. Review and Discussion Regarding Assembly Bill 64 (Berg)**

Christy Berger reported that AB 64 would create the "Uniform Emergency Volunteer Health Practitioners Act." This bill would set up a registration system for volunteer health practitioners and during a declared emergency, volunteers would be sent outside of California to other states or come into California from other states.

This bill would permit the Emergency Medical Services Authority (EMSA) while an emergency declaration is in effect, in consultation with the Office of Emergency Services (OES), to limit, restrict, or otherwise regulate all of the following immediately without prior notice or comment: 1) the duration of practice by volunteer health practitioners, 2) the geographical areas in which volunteer health practitioners may practice, 3) the types of volunteer health practitioners who may practice, and 4) other matters necessary to coordinate effectively the provision of health services during the emergency.

This bill would require a host entity that uses volunteer health practitioners to provide health services in this state to consult and coordinate its activities with the EMSA to the extent practicable to provide for the efficient and effective use of volunteer health practitioners and to comply with any laws relating to the management of emergency health services.

This bill would require that the volunteer health practitioner must be licensed and in good standing in the state where their license is based as if they were licensed in California. If the volunteer is licensed in more than one state and any license is suspended, revoked, or

their practice is restricted, the volunteer would not be able to practice in California.

This bill would require a volunteer health practitioner to adhere to the scope of practice for a similarly licensed practitioner established by California law. This bill would not allow the scope of practice to be broader if their state's scope of practice was smaller.

This bill would permit a California licensing agency to impose administrative sanctions upon a practitioner who is either licensed in California for conduct outside of California in response to an out-of-state emergency or not licensed in California for conduct in California in response to an in-state emergency.

Ms. Berger reported that some states do not require a criminal background check on their licensees, so this is a necessary amendment to the bill.

Ms. Berger explained that there is also a conflict in the bill regarding authority. It is unclear then which entity would have the greater authority to regulate the services provided by volunteer health practitioners during a declared emergency. The bill permits EMSA to regulate matters to coordinate the provision of health services during an emergency. The bill also permits a licensing board to "...modify or restrict the health services...regulated by that body that volunteer health practitioners may provide pursuant to this article." The concern is that the Board cannot take action until it meets. An emergency Board meeting would take time to arrange and would require a quorum. An option would be to designate a single person to act on behalf of the Board.

Ms. Berger explained the difficulty in disciplining a person licensed in another state for conduct during an emergency in California. This bill would permit the Board to take administrative sanctions, but the only tool currently permitted is a citation and fine. This would be unenforceable against an out-of-state licensee since the only authority the Board has to collect an unpaid fine is an intercept through the Franchise Tax Board or enforcement action for unprofessional conduct.

The bill permits different types of agencies to act as registries of volunteer health practitioners. A single registry would be more effective than multiple registries.

Ms. Berger explained that this bill does not require health practitioners to have specific training in disaster response. People without training may actually compound problems during an emergency.

Ms. Schieldge pointed out some of her concerns with this bill, referring to the language in Section 8599.55 (c) which states that the licensing requirements imposed on any health practitioner by California law can be modified during an emergency.

Ms. Schieldge referred to Section 8599.57(e) which states that a volunteer shall not be found to have engaged in unauthorized practice unless the practitioner has reason to know of any limitation. It continues on to define the "know or shouldn't know" standard. Currently, there are violations in the BBS practice act that are strict liability violations that do not require the "know or shouldn't know" standard. This section would lower California laws during an emergency for all registered volunteers. Ms. Schieldge recommended that this be stricken, or limited to practitioners licensed in other states and are not residents in California.

Ms. Schieldge referred to Section 8599.57(e)(2) where *person* should be *practitioner*. Section 8599.57(f) is ambiguous.

Regarding authority, Dr. Russ suggested that the Executive Officer be delegated the duty to act on behalf of the Board during an emergency.

Ms. Schieldge suggested a broad delegation language stating that in the Board's discretion it may delegate some or all of the duties for implementing this section to its Executive Officer, Chair or Vice Chair.

Dr. Russ and Ms. DiGiorgio agreed with Ms. Schieldge's suggestion.

Regarding the criminal background check, Dr. Russ stated this amendment is essential.

DR. IAN RUSS MOVED THAT TO TAKE A POSITION OF SUPPORT AS AMENDED, AND THAT STAFF ADDRESS THE FOLLOWING ISSUES TO THE AUTHOR: 1) REQUIRE CRIMINAL BACKGROUND CHECKS, 2) PERMIT A LICENSING BOARD TO DESIGNATE AUTHORITY DURING A DECLARED EMERGENCY TO THE EXECUTIVE OFFICER, CHAIR, OR VICE CHAIR, 3) PROVIDE MORE SPECIFICITY TO PERMIT THE BOARD TO TAKE ACTION AGAINST A PERSON LICENSED IN ANOTHER STATE FOR CONDUCT IN CALIFORNIA, 4) LIMIT SECTION 8599.57(e) TO LICENSEES FROM OTHER STATES, 5) CREATE A SINGLE OR MULTIPLE LINKED REGISTRIES VOLUNTEER REGISTRY, 6) REQUIRE MINIMAL TRAINING IN DISASTER RESPONSE AND TRAUMA, AND 7) MAKE TWO TECHNICAL AMENDMENTS. GORDONNA DIGIORGIO SECONDED AND THE COMMITTEE CONCURRED.

Mr. Riches stated that feedback on the Board's comments and amendments will be available at the August Board meeting.

### **VIII. Review of 2007 Legislation**

This agenda item was intended for any legislation that needed to be reviewed by the Committee. However, there was no additional 2007 legislation to review.

### **IX. Legislation Update**

The Board has a number of items in the annual Senate Business, Professions and Economic Development Committee (committee) omnibus bill. The committee rejected the item allowing the Board to grant continuing education units for attending Board meetings.

Ms. Schieldge stated that it appears that AB 1525 will pass. The bill would be retroactive to July 1, 2007 and would temporarily extend school approvals issued by the Bureau of Private Postsecondary and Vocational Education (BPPVE) until July 1, 2008 for purposes of registration and licensure.

Ms. Schieldge stated that the Department of Consumer Affairs took a position of oppose on SB 823, the reform bill for the BPPVE.

### **X. Rulemaking Update**

Mr. Riches reported that administrative review on several regulations is nearly complete. A number of them should be passed and sent to the Office of Administrative Law by the

next Board meeting.

## **XI. Suggestions for Future Agenda Items**

Robin Emerson, California Society for Clinical Social Work, suggested a review of some of the regulations pertaining to ASWs and supervisors of ASWs. The language is creating confusion and anxiety that could be cleaned up, for example, the language on requirements for supervision courses. There is a lot of confusion in terms of how hours of experience should be calculated and how to complete the form.

Mr. Riches requested Ms. Emerson to submit the details of her suggestion in writing.

Mr. Koutsolioutsos commented on MFT trainee practicum requirements, stating that there is no clarity. On the Experience Verification Form is a box for MFT trainee and another box for MFT trainee in practicum. The regulation states that the school is responsible for monitoring the clinical experience of the students. It is unclear if BBS is allowing MFT trainees to work under non-practicum conditions.

Mr. Koutsolioutsos commented on criminal records of students, stating that they are not evaluated by the Board until the student applies for intern registration. There is a financial risk of about \$45K in school loans, to discover that a registration or licensure will not be granted due to a conviction. He suggested that BBS consider giving a preliminary answer to students regarding possible denial.

*Meeting was adjourned at 12:06 p.m.*

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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:** Policy and Advocacy Committee

**Date:** September 25, 2007

**From:** Christy Berger  
Legislation Analyst

**Telephone:** (916) 574-7847

**Subject: Discussion and Possible Action Regarding Recommended Proposals for  
Technical Clean-up of BBS Statutes**

- a. 128.5 (b) Reference to Board of Behavioral Science Examiners
- b. 4980.30 MFT License Requirement
- c. 4981 Obsolete Reference to LEP Statutes

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Several sections of the Business and Professions Code (BPC) that pertain to the Board of Behavioral Sciences are in need of technical clean-up, as follows:

- a. **Subdivision (b) BPC Section 128.5** – Delete the word “Examiners” from the Board’s name.
- b. **BPC Section 4980.30** – Clarify that a person who desires to practice and advertise the performance of marriage and family therapy must obtain a license from the Board.
- c. **BPC Section 4981** – Repeal this section, as it is an outdated reference to the application of Article 5, which formerly contained the Licensed Educational Psychologist (LEP) statutes. Article 5 does not currently exist.

These changes would help to maintain the clarity and consistency of the Board’s statutes and would require legislation to do so.

#### Recommendation

The Committee is asked to recommend that the Board sponsor legislation to make technical amendments to BPC Sections 128.5, 4980.30, and 4981.

#### Attachment

Proposed Language

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**BOARD OF BEHAVIORAL SCIENCES  
PROPOSED LANGUAGE  
BUSINESS AND PROFESSIONS CODE (BPC)**

**§ 128.5.**

(a) Notwithstanding any other provision of law, if at the end of any fiscal year, an agency within the Department of Consumer Affairs, except the agencies referred to in subdivision (b), has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

(b) Notwithstanding any other provision of law, if at the end of any fiscal year, the California Architects Board, the Board of Behavioral ~~Science Examiners~~ Sciences, the Veterinary Medical Board, the Court Reporters Board of California, the Medical Board of California, the Board of Vocational Nursing and Psychiatric Technicians, or the Bureau of Security and Investigative Services has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

**§4980.30. APPLICATION FOR LICENSE; PAYMENT OF FEE**

Except as otherwise provided herein, a person desiring to practice and to advertise the performance of marriage and family therapy services shall ~~apply to the board for a license and shall pay the license fee required by this chapter~~ obtain a license from the board.

**~~§4981. APPLICATION OF ARTICLE~~**

~~This article applies to licenses to engage in the business of marriage and family therapy, and does not apply to the licenses provided for in Article 5 (commencing with Section 4986) except that the board shall have all powers provided in this article not inconsistent with this chapter.~~

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**BOARD OF BEHAVIORAL SCIENCES  
PROPOSED LANGUAGE  
LCSW OUTDATED SECTIONS**

**~~§4996.20. SUPERVISED POST-MASTER'S EXPERIENCE CRITERIA PRIOR TO  
JANUARY 1, 1999~~**

The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

~~(a) An applicant shall have at least 3,200 hours of post-master's experience, supervised by a licensed clinical social worker, in providing clinical social work services consisting of psychosocial diagnosis; assessment; treatment, including psychotherapy and counseling; client-centered advocacy; consultation; and evaluation as permitted by Section 4996.9. For persons applying for licensure on or after January 1, 1992, this experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.~~

~~(b) Notwithstanding the requirements of subdivision (a) that 3,200 hours of experience shall be gained under the supervision of a licensed clinical social worker, up to 1,000 hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the board.~~

~~For purposes of this section, "supervision" means responsibility for and control of the quality of social work services being provided. Consultation shall not be considered to be supervision. Supervision shall include at least one hour of direct supervision for each week of experience claimed. Not less than one-half of the hours of required supervision shall be individual supervision. The remaining hours may be group supervision. "Individual supervision" means one supervisor meets with one supervisee at a time. "Group supervision" means a supervisor meets with a group of no more than eight supervisees at a time.~~

~~(c) For purposes of this section, a "private practice setting" is any setting other than a governmental entity, a school, college or university, a nonprofit and charitable corporation or a licensed health facility. Employment in a private practice setting shall not commence until the applicant has been registered as an associate clinical social worker. A registrant employed in a private practice setting shall not:~~

~~(1) Pay his or her employer for supervision, and shall receive fair remuneration from his or her employer.~~

~~(2) Receive any remuneration from patients or clients and shall only be paid by his or her employer.~~

~~(3) Perform services at any place except where the registrant's employer regularly conducts business.~~

~~(4) Have any proprietary interest in the employer's business.~~

~~(d) A person employed in a setting other than a private practice setting may obtain supervision from a person not employed by the registrant's employer if that person has signed a written contract with the employer to take supervisory responsibility for the registrant's social work services.~~

~~(e) This section shall apply only to persons who apply for registration on or before December 31, 1998.~~

**§4996.21. SUPERVISED POST-MASTER'S EXPERIENCE CRITERIA EFFECTIVE JANUARY 1, 1999**

The experience required by subdivision (c) of Section 4996.2 shall meet the following criteria:

~~(a) On or after January 1, 1999, an associate shall have at least 3,200 hours of post-master's degree experience in providing clinical social work services as permitted by Section 4996.9. At least 1,700 of these hours shall be gained under the supervision of a licensed clinical social worker. The remaining hours of the required experience may be gained under the supervision of a licensed mental health professional acceptable to the board as defined in a regulation adopted by the board. Experience shall consist of the following:~~

~~(1) A minimum of 2,000 hours in 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) Experience shall have been gained in not less than two nor more than six years and shall have been gained within the six years immediately preceding the date on which the application for licensure was filed.~~

~~(b) Supervision means responsibility for and control of the quality of clinical social work services being provided.~~

~~(c) Consultation or peer discussion shall not be considered to be supervision.~~

~~(d) Supervision shall include at least one hour of direct supervisor contact for a minimum of 104 weeks and shall include at least one hour of direct supervisor contact for every 10 hours of client contact in each setting where experience is gained. 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 setting of not more than eight persons.~~

~~(e) 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.~~

~~(f) (1) Experience shall only be gained in a setting that meets both of the following:~~

~~(A) Lawfully and regularly provides clinical social work, mental health counseling, or psychotherapy.~~

~~(B) 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.~~

~~(2) Experience shall not be gained until the applicant has been registered as an associate clinical social worker.~~

~~(3) Employment in a private practice as defined in paragraph (4) shall not commence until the applicant has been registered as an associate clinical social worker.~~

~~(4) 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.~~

~~(5) 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.~~

~~(6) 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.~~

~~(g) While an associate may be either a paid employee or a volunteer, employers are encouraged to provide fair remuneration to associates.~~

~~(h) An associate 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.~~

~~(i) 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.~~

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**BOARD OF BEHAVIORAL SCIENCES  
RELATED STATUTE**

**§4996.23 SUPERVISED POST-MASTER'S EXPERIENCE CRITERIA EFFECTIVE JANUARY 1, 2002**

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.

(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.

1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
www.bbs.ca.gov

**To:** Policy and Advocacy Committee

**Date:** September 25, 2007

**From:** Paul Riches  
Executive Officer

**Telephone:** (916) 574-7830

**Subject: SB 963 (Ridley-Thomas)**

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### **Background**

Current law requires that boards and bureaus under the Department of Consumer Affairs (DCA) undergo "sunset review" periodically. Sunset review is a structured form of legislative oversight that was established for professional licensing programs in 1994 legislation (see attachment B for a history of the sunset review process). The Legislature established the Joint Legislative Sunset Review Committee (subsequently renamed the Joint Committee on Boards Professions and Consumer Protection) to conduct the sunset review process. Each year a selection of boards and bureaus were required to submit an extensive report to the committee detailing their operations and performance. That report and the committee staff report served as the basis for public hearings by the committee regarding each program. These hearings also provided stakeholder groups an opportunity to comment on the performance of the board or bureau.

Under the 1994 law, each board and bureau had a "sunset" date amended into its authorizing statute. Absent legislative action to extend that date, the board or bureau would "sunset" or cease to exist (as we witnessed last year with the Bureau for Private Post-Secondary and Vocational Education). If a board or bureau was found to be operating acceptably, the committee would sponsor legislation to extend the sunset date for four (4) years at which time the board or bureau would again be subject to the review process. If a board or bureau was not found to be operating acceptably, the committee would generally require review again in two (2) year increments. In extreme circumstances, structural changes in the programs were imposed through sunset extension legislation. Some boards were allowed to sunset and become bureaus under the Department of Consumer Affairs, and other programs were merged together. The sunset bills also were vehicles for significant changes and proposals relating to the affected programs. The threat of sunset has been used to gain acceptance of changes to programs that were controversial.

The BBS was last subject to sunset review in 2005 and no negative findings were made. Shortly thereafter, Governor Schwarzenegger's California Performance Review (CPR) recommended the elimination of professional licensing boards in the Department of Consumer Affairs, and transferred the regulatory authority to the Department of Health Services without a board structure. That proposal was widely opposed and was not adopted. Subsequently, the Schwarzenegger Administration recommended consolidating some professional licensing boards under the Department of Consumer Affairs including a merger of the BBS and the Board of Psychology. Those proposals were also opposed and were not adopted.

The BBS currently has a sunset date of July 1, 2009 and legislation will be required in the 2008 legislative session to continue the board's existence beyond that date. Traditionally, the Senate Business and Professions Committee sponsors such legislation.

### ***Senate Bill 963***

On June 25, 2007 Senator Mark Ridley-Thomas, Chairman of the Senate Business and Professions Committee, amended Senate Bill 963 with new oversight mechanism for the boards and bureaus under DCA. In broad terms the bill makes the following changes:

1. Eliminates the sunset dates for DCA boards and bureaus.
2. Establishes the Office of the Consumer Advocate with the DCA with a range of powers, including:
  - a. Serve as the "independent monitor" of boards reconstituted by the Legislature
  - b. Establish a "Consumer Participation Program" that would award witness and advocacy fees to persons or organizations making a "substantial contribution" to a board regulation or disciplinary action.
  - c. Participate as an amicus curiae in disciplinary matters.
  - d. Recommend consumer protection legislation.
  - e. Represent the interests of consumers in governmental forums.
  - f. Study/investigate/research consumer issues.
  - g. Hold hearings, subpoena witnesses, take testimony, compel production of documents and evidence, and request information from government agencies.
  - h. Promote ethical standards for professions related to consumer interests.
  - i. Charge each board an annual pro-rata share of its operating costs.
3. Establishes the Chief of the Office of the Consumer Advocate as a gubernatorial appointment with a four year term of office.
4. Allows the Legislature to reconstitute a board upon the recommendation of a legislative policy committee.
5. Enacts broad new reporting requirements for boards and bureaus within the DCA.
6. Subjects the appointment of board executive officers to the approval of the DCA Director and to Senate confirmation.
7. Establishes criteria for reviewing board/bureau evaluations.

### ***Discussion***

The Sunset Review process has not always been well received by boards and bureaus.

- The process has been time consuming and does drain scarce resources away from other priorities.
- As a legislative process, Sunset Review has sometimes felt political influences independent of assessing the performance of individual programs.
- The review process has also suffered from not having well articulated performance standards for boards. Review has been on a "we know a problem when we see it" basis. A holistic element is necessary in any board review process, but it ought to be bracketed by some relatively concrete performance standards.

Despite those issues, I believe regular legislative oversight has real value and should be continued. It provides an opportunity for sharing successful strategies among programs and has been a vehicle for progressive changes on boards with strong track records. However, it appears that the existing Sunset Review process may no longer be viable, and some replacement oversight mechanism needs to be considered.

The committee may want to consider providing comment for the board's consideration regarding elements of an effective oversight process. Staff has a number of thoughts for the committee's consideration regarding elements of an effective oversight process.

Oversight Processes should include:

- 1) Open/collaborative process of establishing some concrete performance standards in major program areas (licensing, cashiering, examinations, etc.).
- 2) Thematic Focus. Existing review processes are conducted by snapshot reviews of individual boards over time. This may be appropriate for boards/bureaus with particularly acute problems; however, performing an individual round of oversight along a particular theme (licensing, enforcement, customer service, communications, etc.) and sampling the 37 DCA boards and bureaus as to that theme would be more productive and informative for both the Legislature and the participating boards/bureaus.
- 3) Coordination between the Assembly and Senate committees. Duplicative or conflicting oversight and standard setting efforts are in no one's interest.
- 4) Hands On. Oversight staff should attend/participate in public board and committee meetings as part of the process. Board policymaking and public processes are essential to our functions and are hard to evaluate completely without seeing them in person.

Sunset dates aren't needed. The Legislature can command the attention and participation of any board both through the relevant policy committees and through the annual budget process. Sunset dates are not needed to "enforce" effective oversight.

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AMENDED IN ASSEMBLY JUNE 25, 2007

AMENDED IN SENATE APRIL 16, 2007

**SENATE BILL**

**No. 963**

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**Introduced by Senator Ridley-Thomas**

February 23, 2007

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

LEGISLATIVE COUNSEL'S DIGEST

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

*Existing law creates various regulatory boards, as defined, within the Department of Consumer Affairs and makes their funds separate accounts within the Professions and Vocations Fund. Under existing*

law, the revenue in certain of these accounts is continuously appropriated to the board, other than fine and penalty revenues.

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

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

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

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

*The bill would allow a person to serve as the public member of more than one of these boards and would require all members of these boards, as well as bureau chiefs, to report annually to their appointing authority on their goals and objectives and success in achieving them, which would be posted on the board's Internet Web site. The bill would require the department to report to the Legislature and Governor if a board was unable to meet because of a lack of a quorum or vacancy. The bill would require members of these boards and other state boards to report ex parte communications, as defined, in the board's minutes. The bill would require boards within the department, the State Bar, the Office of Real Estate Appraisers, and other state boards that license professions or businesses to adopt regulations to provide incentives to licensees to provide services on a pro bono basis and to adopt regulations prior to June 30, 2009, establishing regulatory board staffing requirements.*

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

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

1     SECTION 1. Section 22 of the Business and Professions Code  
2 is amended to read:

3     22. ~~(a)~~ “Board,” as used in any provision of this code, refers  
4 to the board in which the administration of the provision is vested,  
5 and unless otherwise expressly provided, shall include “bureau,”  
6 “commission,” “committee,” “department,” “division,” “examining  
7 committee,” “program,” and “agency.”

8     ~~(b) Whenever the regulatory program of a board that is subject~~  
9 ~~to review by the Joint Committee on Boards, Commissions, and~~  
10 ~~Consumer Protection, as provided for in Division 1.2 (commencing~~  
11 ~~with Section 473), is taken over by the department, that program~~  
12 ~~shall be designated as a “bureau.”~~

13     SEC. 2. Section 27.5 is added to the Business and Professions  
14 Code, to read:

15     27.5. A board within the department shall annually post on its  
16 Internet Web site the number of reports it received that year for  
17 its licensees in each of the following categories:

- 18     (a) Criminal convictions.
- 19     (b) Judgments, settlements, or arbitration awards.
- 20     (c) Claims paid by a professional liability insurer caused by  
21 the licensee’s negligence, error, or omission.

22     SEC. 3. Section 36 is added to the Business and Professions  
23 Code, to read:

24     36. A board within the department, the State Bar, the Office  
25 of Real Estate Appraisers, and any other state board that issues  
26 a license, certificate, or registration authorizing a person to engage  
27 in a business or profession may adopt regulations that provide an  
28 incentive to the holder to provide services within the scope of his  
29 or her license, certificate, or registration on a pro bono basis. The  
30 regulations may reduce the amount of the renewal fee for a

1 licensee, certificate holder, or registrant who demonstrates  
2 compliance with the pro bono requirements set forth in the  
3 regulations.

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

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

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

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

31 SEC. 6. Section 101.1 of the Business and Professions Code  
32 is repealed.

33 ~~101.1. (a) It is the intent of the Legislature that all existing  
34 and proposed consumer-related boards or categories of licensed  
35 professionals be subject to a review every four years to evaluate  
36 and determine whether each board has demonstrated a public need  
37 for the continued existence of that board in accordance with  
38 enumerated factors and standards as set forth in Division 1.2  
39 (commencing with Section 473).~~

1 ~~(b) (1) In the event that any board, as defined in Section 477,~~  
2 ~~becomes inoperative or is repealed in accordance with the act that~~  
3 ~~added this section, or by subsequent acts, the Department of~~  
4 ~~Consumer Affairs shall succeed to and is vested with all the duties,~~  
5 ~~powers, purposes, responsibilities and jurisdiction not otherwise~~  
6 ~~repealed or made inoperative of that board and its executive officer.~~

7 ~~(2) Any provision of existing law that provides for the~~  
8 ~~appointment of board members and specifies the qualifications~~  
9 ~~and tenure of board members shall not be implemented and shall~~  
10 ~~have no force or effect while that board is inoperative or repealed.~~  
11 ~~Every reference to the inoperative or repealed board, as defined~~  
12 ~~in Section 477, shall be deemed to be a reference to the department.~~

13 ~~(3) Notwithstanding Section 107, any provision of law~~  
14 ~~authorizing the appointment of an executive officer by a board~~  
15 ~~subject to the review described in Division 1.2 (commencing with~~  
16 ~~Section 473), or prescribing his or her duties, shall not be~~  
17 ~~implemented and shall have no force or effect while the applicable~~  
18 ~~board is inoperative or repealed. Any reference to the executive~~  
19 ~~officer of an inoperative or repealed board shall be deemed to be~~  
20 ~~a reference to the director or his or her designee.~~

21 ~~(e) It is the intent of the Legislature that subsequent legislation~~  
22 ~~to extend or repeal the inoperative date for any board shall be a~~  
23 ~~separate bill for that purpose.~~

24 *SEC. 7. Section 101.1 is added to the Business and Professions*  
25 *Code, to read:*

26 *101.1. (a) It is the intent of the Legislature that all existing*  
27 *and proposed consumer-related boards or categories of licensed*  
28 *professionals be subject to ongoing and continuous review as well*  
29 *as a periodic thorough review when issues arise requiring that*  
30 *level of review and such a review is requested by a Member of the*  
31 *Legislature or the chief of the Office of the Consumer Advocate*  
32 *as provided in Division 1.3 (commencing with Section 474.20).*  
33 *The review of a board shall evaluate and determine whether its*  
34 *operations are effectively protecting the public and that protection*  
35 *of the public is the highest priority of the board.*

36 *(b) Notwithstanding any other provision of law, if a board is*  
37 *deemed deficient and its members removed, as described in Section*  
38 *474.21, a successor board shall be appointed that shall succeed*  
39 *to, and be vested with, all the duties, powers, purposes,*  
40 *responsibilities, and jurisdiction not otherwise repealed or made*

1 *inoperative of the board that it is succeeding. The successor board*  
2 *shall have the same number of members and composition as the*  
3 *board that it is succeeding, and those members shall be appointed*  
4 *by the same appointing authorities, for the same term, and with*  
5 *the same membership requirements as the members of the board*  
6 *it is succeeding. The successor board shall have the same authority*  
7 *to appoint an executive officer as the board that it is succeeding*  
8 *as of the date that board was found deficient. The successor board*  
9 *members shall be appointed within 10 business days of receipt by*  
10 *the Joint Committee on Rules of the deficiency report, as described*  
11 *in Section 474.21.*

12 *SEC. 8. Section 101.5 is added to the Business and Professions*  
13 *Code, to read:*

14 *101.5. (a) Each board within the department shall enter into*  
15 *an agreement with the department for the department to provide*  
16 *administrative and ministerial functions and services, including,*  
17 *but not limited to, personnel services, information technology, the*  
18 *administration of call centers, and the administration of*  
19 *examinations. The Legislature intends that these agreements shall*  
20 *achieve cost savings resulting from economies of scale and a more*  
21 *consistent delivery of services to California consumers and*  
22 *licensees.*

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

26 *SEC. 9. Section 102.3 of the Business and Professions Code*  
27 *is amended to read:*

28 *102.3. (a) The director may enter into an interagency*  
29 *agreement with an appropriate entity within the Department of*  
30 *Consumer Affairs as provided for in Section 101 to delegate the*  
31 *duties, powers, purposes, responsibilities, and jurisdiction that*  
32 *have been succeeded and vested with the department, of a board;*  
33 *as defined in Section 477, which that became inoperative and was*  
34 *repealed in accordance with Chapter 908 of the Statutes of 1994.*

35 *(b) (1) ~~Where~~ If, pursuant to subdivision (a), an interagency*  
36 *agreement is entered into between the director and that entity, the*  
37 *entity receiving the delegation of authority may establish a*  
38 *technical committee to regulate, as directed by the entity, the*  
39 *profession subject to the authority that has been delegated. The*  
40 *entity may delegate to the technical committee only those powers*

1 that it received pursuant to the interagency agreement with the  
2 director. The technical committee shall have only those powers  
3 that have been delegated to it by the entity.

4 (2) ~~Where~~ If the entity delegates its authority to adopt, amend,  
5 or repeal regulations to the technical committee, all regulations  
6 adopted, amended, or repealed by the technical committee shall  
7 be subject to the review and approval of the entity.

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

12 (c) An interagency agreement entered into, pursuant to  
13 subdivision (a), shall continue until ~~such time as~~ the licensing  
14 program administered by the technical committee has undergone  
15 a review by the ~~Joint Committee on Boards, Commissions, and~~  
16 ~~Consumer Protection Office of the Consumer Advocate~~ to evaluate  
17 and determine whether the *highest priority of the* licensing program  
18 ~~has demonstrated a public need for its continued existence is the~~  
19 *protection of the public*. Thereafter, at the ~~director's~~ discretion of  
20 *the chief of that office*, the interagency agreement may be renewed.

21 *SEC. 10. Section 107 of the Business and Professions Code is*  
22 *amended to read:*

23 107. (a) Pursuant to subdivision (e) of Section 4 of Article  
24 VII of the California Constitution, each board may appoint a person  
25 exempt from civil service and may fix his or her salary, with the  
26 approval of the Department of Personnel Administration pursuant  
27 to Section 19825 of the Government Code, who shall be designated  
28 as an executive officer unless the licensing act of the particular  
29 board designates the person as a registrar. *A person may be*  
30 *appointed as an executive officer or registrar for more than one*  
31 *board if approved by each of those boards and may serve in those*  
32 *capacities at the same time if practical and consistent with law*  
33 *and the respective board functions and duties.*

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

37 *SEC. 11. Section 108 of the Business and Professions Code is*  
38 *amended to read:*

39 108. (a) Each of the boards comprising the department exists  
40 as a separate unit, and has the functions of setting standards,

1 holding meetings, and setting dates thereof, preparing and  
2 conducting examinations, passing upon applicants, conducting  
3 investigations of violations of laws under its jurisdiction, issuing  
4 citations and holding hearings for the revocation of licenses, and  
5 the imposing of penalties following ~~such~~ *those* hearings, in so far  
6 as these powers are given by statute to each respective board.

7 *(b) The department shall develop a common method of*  
8 *maintaining, posting, and making available to the public minutes*  
9 *of the meetings of the boards comprising the department. Each of*  
10 *those boards shall use that method and shall post the minutes of*  
11 *its meetings on its Internet Web site within 10 days of the date of*  
12 *the meeting.*

13 *SEC. 12. Section 117 is added to the Business and Professions*  
14 *Code, to read:*

15 *117. (a) Each board within the department shall adopt*  
16 *meaningful, measurable, and manageable performance measures.*  
17 *Performance measures include, but are not limited to, the following*  
18 *information:*

19 *(1) A comprehensive statement of the board's mission, goals,*  
20 *objectives, and legal jurisdiction in protecting the health, safety,*  
21 *and welfare of the public.*

22 *(2) The board's enforcement priorities, complaint and*  
23 *enforcement data, budget expenditures with average- and*  
24 *median-costs per case, and case aging data specific to post and*  
25 *preaccusation cases at the Attorney General's office.*

26 *(3) The board's fund conditions, sources of revenues, and*  
27 *expenditure categories for the last four fiscal years by program*  
28 *component.*

29 *(4) The board's description of its licensing process including*  
30 *the time and costs required to implement and administer its*  
31 *licensing examination, ownership of the license examination,*  
32 *relevancy and validity of the licensing examination, and passage*  
33 *rate and areas of examination.*

34 *(5) The board's initiation of legislative efforts, budget change*  
35 *proposals, and other initiatives it has taken to improve its*  
36 *legislative mandate.*

37 *(b) Each board within the department shall report to the director*  
38 *and the chief of the Office of the Consumer Advocate its*  
39 *performance measures and data relating to those measures on a*  
40 *quarterly basis. Each board shall post quarterly on its Internet*

1 Web site the information it reported pursuant to this subdivision  
2 and provide the information annually to the Department of  
3 Finance, the Legislative Analyst's Office, and the Legislature.

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

9 (d) The department may adopt regulations pertaining to the  
10 requirements described in subdivision (a).

11 SEC. 13. Section 117.5 is added to the Business and Professions  
12 Code, to read:

13 117.5. (a) Each member of a board within the department and  
14 the chief of any bureau within the board shall annually report, on  
15 or before December 31 of each year, to the authority that appointed  
16 him or her the extent to which the member or chief achieved his  
17 or her goals and objectives that year and shall also report the  
18 goals and objectives he or she expects to achieve during the  
19 following calendar year.

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

23 SEC. 14. Section 127.5 is added to the Business and Professions  
24 Code, to read:

25 127.5. The department shall report to the Legislature and the  
26 Governor when a board within the department has been unable  
27 to schedule or convene a meeting of the board because of a lack  
28 of a quorum caused by the absence of its members or by a vacancy  
29 in its membership.

30 SEC. 15. Section 156.7 is added to the Business and Professions  
31 Code, to read:

32 156.7. (a) Prior to January 1, 2010, the director, in  
33 consultation with the State Chief Information Officer, shall replace  
34 the department's existing information technology system with a  
35 system that meets the requirements of the department and of the  
36 boards within the department.

37 (b) The director shall charge each of the boards on a pro rata  
38 share basis for the costs of replacing the information technology  
39 system. The charge shall be an administrative expense that may

1 *be levied in advance against the funds of any of the boards*  
2 *pursuant to Section 201.*

3 *(c) Notwithstanding any other provision of this section, the*  
4 *procurement of the information technology system shall be made*  
5 *in accordance with Chapter 3 (commencing with Section 12100)*  
6 *of Part 2 of Division 2 of the Public Contract Code.*

7 *SEC. 16. Section 312 of the Business and Professions Code is*  
8 *amended to read:*

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

16 (b) *On or before January 1 of each year, beginning in 2009,*  
17 *the director shall submit to the chairperson of the fiscal committee*  
18 *of each house of the Legislature and to the Joint Legislative Budget*  
19 *Committee all of the following information:*

20 (1) *The number of personnel years assigned to the Office of the*  
21 *Consumer Advocate.*

22 (2) *The total dollars expended by the Office of the Consumer*  
23 *Advocate in the prior year, the estimated total dollars expended*  
24 *in the current year, and the total dollars proposed for*  
25 *appropriation in the following budget year.*

26 (3) *Workload standards and measures for the Office of the*  
27 *Consumer Advocate.*

28 *SEC. 17. Section 313.1 of the Business and Professions Code*  
29 *is amended to read:*

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

36 (b) The director *and the chief of the Office of the Consumer*  
37 *Advocate* shall be formally notified of and shall be provided a full  
38 opportunity to review, in accordance with the requirements of  
39 Article 5 (commencing with Section 11346) of Chapter 3.5 of Part

1 1 of Division 3 of Title 2 of the Government Code, and this section,  
2 all of the following:

3 (1) All notices of proposed action, any modifications and  
4 supplements thereto, and the text of proposed regulations.

5 (2) Any notices of sufficiently related changes to regulations  
6 previously noticed to the public, and the text of proposed  
7 regulations showing modifications to the text.

8 (3) Final rulemaking records.

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

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

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

32 (1) ~~In the event that~~ *If* the one-year notice period lapses during  
33 the ~~director's~~ 30-day review period, or within 60 days following  
34 the notice of the ~~director's~~ disapproval, it may be extended for a  
35 maximum of 90 days.

36 (2) If the director ~~approves~~ *and the chief approve* the final  
37 rulemaking record or declines to take action on it within 30 days,  
38 the board, commission, or committee shall have five days from  
39 the receipt of the record from the director *and the chief* within  
40 which to file it with the Office of Administrative Law.

1 (3) If the director *or the chief* disapproves a rule or regulation,  
2 it shall have no force or effect unless, within 60 days of the notice  
3 of disapproval, (A) the disapproval is overridden by a unanimous  
4 vote of the members of the board, commission, or committee, and  
5 (B) the board, commission, or committee files the final rulemaking  
6 record with the Office of Administrative Law in compliance with  
7 this section and the procedures required by Chapter 3.5  
8 (commencing with Section 11340) of Part 1 of Division 3 of Title  
9 2 of the Government Code.

10 (f) Nothing in this section shall be construed to prohibit the  
11 director *or the chief of the Office of the Consumer Advocate* from  
12 affirmatively approving a proposed rule, regulation, or fee change  
13 at any time within the 30-day period after it has been submitted to  
14 him or her, in which event it shall become effective upon  
15 compliance with this section and the procedures required by  
16 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
17 3 of Title 2 of the Government Code.

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

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

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

31

32 *CHAPTER 4.5. OFFICE OF THE CONSUMER ADVOCATE*

33

34 *Article 1. General Provisions*

35

36 360. *This chapter shall be known and may be cited as the Office*  
37 *of the Consumer Advocate Act.*

38 361. *It is the intent of the Legislature and the purpose of this*  
39 *chapter to promote the efficiency of each of the boards that*  
40 *comprise the department by ensuring that each board properly*

1 discharges its regulatory and disciplinary functions to protect the  
2 interests of consumers.

3 362. The following definitions apply for purposes of this  
4 chapter:

5 (a) “Board” means any entity listed in Section 101.

6 (b) “Chief” means the chief of the Office of the Consumer  
7 Advocate.

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

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

11

## 12 Article 2. Administration

13

14 370. The Office of the Consumer Advocate is hereby established  
15 in the department.

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

25 372. The chief shall administer and enforce the provisions of  
26 this chapter. Every power granted or duty imposed upon the chief  
27 under this chapter may be exercised or performed in the name of  
28 the chief by an employee of the office, subject to any conditions  
29 and limitations the chief may prescribe.

30 373. (a) The chief, in accordance with the State Civil Service  
31 Act, shall appoint a chief counsel of the office and an adequate  
32 number of attorneys, as determined by the chief counsel, to carry  
33 out the provisions of this chapter.

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

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

39 374. The chief may contract for the services of experts and  
40 consultants if necessary to carry out the provisions of this chapter

1 *and may provide compensation and reimbursement of expenses*  
2 *for those experts and consultants in accordance with state law.*

3

4

*Article 3. Powers and Duties*

5

6 380. (a) *The office shall serve as an independent monitor*  
7 *pursuant to Section 474.22.*

8 (b) *The office shall review interagency agreements pursuant to*  
9 *Section 102.3.*

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

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

25 383. *The chief shall have the following powers and it shall be*  
26 *his or her duty to take the following actions:*

27 (a) *Recommend and propose the enactment of legislation that*  
28 *is necessary to protect and promote the interests of consumers.*

29 (b) *Represent the interests of consumers before federal and state*  
30 *legislative and regulatory hearings.*

31 (c) *Assist, advise, and cooperate with federal, state, and local*  
32 *agencies and officials to protect and promote the interests of*  
33 *consumers.*

34 (d) *Study, investigate, research, and analyze matters affecting*  
35 *the interests of consumers.*

36 (e) *Hold public hearings, subpoena witnesses, take testimony,*  
37 *compel the production of books, papers, documents, and other*  
38 *evidence, and call upon state agencies for information.*

39 (f) *Propose and assist in the creation and development of*  
40 *consumer education programs.*

1 (g) Promote ethical standards of conduct for business,  
 2 professions, and consumers related to the interest of consumers.

3 (h) Advise the Governor and Legislature on all matters affecting  
 4 the interests of consumers.

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

8 (j) Maintain contact and liaison with consumer groups in  
 9 California and nationally.

10 384. The chief shall report annually to the Governor and  
 11 appear annually before the appropriate policy committees of the  
 12 Legislature to report on the office’s activities.

13

14

Article 4. Revenue

15

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

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

26 SEC. 20. Section 450.1 is added to the Business and Professions  
 27 Code, to read:

28 450.1. A person may serve as a public member of more than  
 29 one board at the same time if not prohibited by any other law.

30 SEC. 21. Division 1.2 (commencing with Section 473) of the  
 31 Business and Professions Code is repealed.

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

34

35 DIVISION 1.3. LEGISLATIVE REVIEW OF STATE BOARDS  
 36 AND BOARDS WITHIN THE DEPARTMENT OF CONSUMER  
 37 AFFAIRS

38

39 474.20. (a) A Member of the Legislature or the chief of the  
 40 Office of the Consumer Advocate may submit a written request to

1 *the appropriate standing policy committee of the Legislature to*  
2 *conduct an analysis to evaluate any of the following entities:*

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

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

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

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

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

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

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

37 *(1) Whether regulation by the board is necessary to protect the*  
38 *public health, safety, and welfare.*

39 *(2) Whether the initial reasons for licensing or regulating a*  
40 *practice or profession have changed.*

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

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

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

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

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

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

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

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

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

38    (d) *The standing policy committee shall determine if a board is*  
39 *deficient. The committee shall report its deficiency determination*  
40 *to the Joint Committee on Rules. Notwithstanding any other*

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

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

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

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

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

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

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

35 ~~(d) This section shall become inoperative on July 1, 2008, and,~~  
36 ~~as of January 1, 2009, is repealed, unless a later enacted statute~~  
37 ~~that is enacted before January 1, 2009, deletes or extends the dates~~  
38 ~~on which it becomes inoperative and is repealed. The repeal of~~  
39 ~~this section renders the board subject to the review required by~~  
40 ~~Division 1.2 (commencing with Section 473).~~

1     *SEC. 24. Section 1632.5 of the Business and Professions Code*  
2     *is amended to read:*

3     1632.5. (a) Prior to implementation of paragraph (2) of  
4     subdivision (c) of Section 1632, the department's Office of  
5     Examination Resources shall review the Western Regional  
6     Examining Board examination to assure compliance with the  
7     requirements of Section 139 and to certify that the examination  
8     process meets those standards. If the department determines that  
9     the examination process fails to meet those standards, paragraph  
10    (2) of subdivision (c) of Section 1632 shall not be implemented.  
11    The review of the Western Regional Examining Board examination  
12    shall be conducted during or after the Dental Board of California's  
13    occupational analysis scheduled for the 2004–05 fiscal year, but  
14    not later than September 30, 2005. However, an applicant who  
15    successfully completes the Western Regional Examining Board  
16    examination on or after January 1, 2005, shall be deemed to have  
17    met the requirements of subdivision (c) of Section 1632 if the  
18    department certifies that the Western Regional Examining Board  
19    examination meets the standards set forth in this subdivision.

20    (b) The Western Regional Examining Board examination  
21    process shall be regularly reviewed by the department pursuant to  
22    Section 139.

23    (c) The Western Regional Examining Board examination shall  
24    meet the mandates of subdivision (a) of Section 12944 of the  
25    Government Code.

26    (d) ~~As part of its next scheduled review by the Joint Committee~~  
27    ~~on Boards, Commissions, and Consumer Protection, the~~ *The Dental*  
28    Board of California shall report *on or before July 1, 2008, to that*  
29    ~~committee and the department and the Office of the Consumer~~  
30    *Advocate* on the pass rates of applicants who sat for the Western  
31    Regional Examining Board examination, compared with the pass  
32    rates of applicants who sat for the state clinical and written  
33    examination administered by the Dental Board of California. This  
34    report shall be a component of the evaluation of the examination  
35    process that is based on psychometrically sound principles for  
36    establishing minimum qualifications and levels of competency.

37    *SEC. 25. Section 1634.2 of the Business and Professions Code*  
38    *is amended to read:*

1 1634.2. (a) An advanced education program's compliance  
2 with subdivision (c) of Section 1634.1 shall be regularly reviewed  
3 by the department pursuant to Section 139.

4 (b) An advanced education program described in subdivision  
5 (c) of Section 1634.1 shall meet the requirements of subdivision  
6 (a) of Section 12944 of the Government Code.

7 (c) The clinical residency program completion certification  
8 required by subdivision (c) of Section 1634.1 shall include a list  
9 of core competencies commensurate to those found in the board's  
10 examinations. The board, together with the department's Office  
11 of Examination Resources, shall ensure the alignment of the  
12 competencies stated in the clinical residency program completion  
13 certification with the board's current occupational analysis. The  
14 board shall implement use of the clinical residency program  
15 completion certification form and use of the core competency list  
16 through the adoption of emergency regulations by January 1, 2008.

17 ~~(d) As part of its next scheduled review after January 1, 2007,~~  
18 ~~by the Joint Committee on Boards, Commissions and Consumer~~  
19 ~~Protection, the~~ The board shall report to that committee and to the  
20 department and the Office of the Consumer Advocate on or before  
21 January 1, 2010, the number of complaints received for those  
22 dentists who have obtained licensure by passing the state clinical  
23 examination and for those dentists who have obtained licensure  
24 through an advanced education program. The report shall also  
25 contain tracking information on these complaints and their  
26 disposition. This report shall be a component of the evaluation of  
27 the examination process that is based on psychometrically sound  
28 principles for establishing minimum qualifications and levels of  
29 competency.

30 *SEC. 26. Section 1638.1 of the Business and Professions Code*  
31 *is amended to read:*

32 1638.1. (a) (1) A person licensed pursuant to Section 1634  
33 who wishes to perform elective facial cosmetic surgery shall first  
34 apply for and receive a permit to perform elective facial cosmetic  
35 surgery from the board.

36 (2) A permit issued pursuant to this section shall be valid for a  
37 period of two years and must be renewed by the permitholder at  
38 the time his or her license is renewed. Every six years, prior to  
39 renewal of the permitholder's license and permit, the permitholder  
40 shall submit evidence acceptable to the credentialing committee

1 that he or she has maintained continued competence to perform  
2 the procedures authorized by the permit. The credentialing  
3 committee may limit a permit consistent with paragraph (1) of  
4 subdivision (e) if it is not satisfied that the permitholder has  
5 established continued competence.

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

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

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

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

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

19 (ii) Submits to the board a letter from the program director of  
20 the accredited residency program, or from the director of a  
21 postresidency fellowship program accredited by the Commission  
22 on Dental Accreditation of the American Dental Association,  
23 stating that the licensee has the education, training, and competence  
24 necessary to perform the surgical procedures that the licensee has  
25 notified the board he or she intends to perform.

26 (iii) Submits documentation to the board of at least 10 operative  
27 reports from residency training or proctored procedures that are  
28 representative of procedures that the licensee intends to perform  
29 from both of the following categories:

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

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

35 (iv) Submits documentation to the board showing the surgical  
36 privileges the applicant possesses at any licensed general acute  
37 care hospital and any licensed outpatient surgical facility in this  
38 state.

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

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

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

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

12 (e) (1) The board shall appoint a credentialing committee to  
13 review the qualifications of each applicant for a permit. Upon  
14 completion of the review of an applicant, the committee shall make  
15 a recommendation to the board on whether to issue or not issue a  
16 permit to the applicant. The permit may be unqualified, entitling  
17 the permitholder to perform any facial cosmetic surgical procedure  
18 authorized by this section, or it may contain limitations if the  
19 credentialing committee is not satisfied that the applicant has the  
20 training or competence to perform certain classes of procedures,  
21 or if the applicant has not requested to be permitted for all  
22 procedures authorized by this section.

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

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

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

31 (C) Three oral and maxillofacial surgeons licensed by the board  
32 who are board certified by the American Board of Oral and  
33 Maxillofacial Surgeons, and who maintain active status on the  
34 staff of a licensed general acute care hospital in this state, at least  
35 one of whom shall be licensed as a physician and surgeon in this  
36 state. Two years after the effective date of this section, any oral  
37 and maxillofacial surgeon appointed to the committee who is not  
38 licensed as a physician and surgeon shall hold a permit pursuant  
39 to this section.

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

4 (A) The Medical Board of California.

5 (B) The California Dental Association.

6 (C) The California Association of Oral and Maxillofacial  
7 Surgeons.

8 (D) The California Medical Association.

9 (E) The California Society of Plastic Surgeons.

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

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

15 (f) A licensee may not perform any elective, facial cosmetic  
16 surgical procedure except at a general acute care hospital, a licensed  
17 outpatient surgical facility, or an outpatient surgical facility  
18 accredited by the Joint Commission on Accreditation of Healthcare  
19 Organizations (JCAHO), the American Association for Ambulatory  
20 Health Care (AAAHC), the Medicare program, or an accreditation  
21 agency approved by the Medical Board of California pursuant to  
22 subdivision (g) of Section 1248.1 of the Health and Safety Code.

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

25 (1) “Elective cosmetic surgery” means any procedure defined  
26 as cosmetic surgery in subdivision (d) of Section 1367.63 of the  
27 Health and Safety Code, and excludes any procedure that  
28 constitutes reconstructive surgery, as defined in subdivision (c) of  
29 Section 1367.63 of the Health and Safety Code.

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

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

38 (i) A holder of a permit shall comply with the requirements of  
39 subparagraph (D) of paragraph (2) of subdivision (a) of Section  
40 1248.15 of the Health and Safety Code, and the reporting

1 requirements specified in Section 2240, with respect to any surgical  
2 procedure authorized by this section, in the same manner as a  
3 physician and surgeon.

4 (j) Any violation of this section constitutes unprofessional  
5 conduct and is grounds for the revocation or suspension of the  
6 person's permit, license, or both, or the person may be reprimanded  
7 or placed on probation. Proceedings initiated by the board under  
8 this section shall be conducted in accordance with Chapter 5  
9 (commencing with Section 11500) of Part 1 of Division 3 of Title  
10 2 of the Government Code, and the board shall have all the powers  
11 granted therein.

12 (k) On or before January 1, 2009, and every four years thereafter,  
13 the board shall report to the ~~Joint Committee on Boards,~~  
14 ~~Commissions and Consumer Protection~~ *Legislature and the Office*  
15 *of the Consumer Advocate* on all of the following:

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

19 (2) The recommendations of the credentialing committee to the  
20 board.

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

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

25 (5) The number of complaints filed by or on behalf of patients  
26 who have received elective facial cosmetic surgery by persons  
27 who have received a permit from the board to perform elective  
28 facial cosmetic surgery.

29 (6) Action taken by the board resulting from complaints filed  
30 by or on behalf of patients who have received elective facial  
31 cosmetic surgery by persons who have received a permit from the  
32 board to perform elective facial cosmetic surgery.

33 *SEC. 27. Section 1638.7 of the Business and Professions Code*  
34 *is amended to read:*

35 1638.7. The next occupational analysis of dental licensees and  
36 oral and maxillofacial facial surgeons pursuant to Section 139 shall  
37 include a survey of the training and practices of oral and  
38 maxillofacial surgeons and, upon completion of that analysis, a  
39 report shall be made to the ~~Joint Committee on Boards,~~

1 ~~Commissions, and Consumer Protection~~ *Legislature and the Office*  
2 *of the Consumer Advocate* regarding the findings.

3 *SEC. 28. Section 1742 of the Business and Professions Code*  
4 *is amended to read:*

5 1742. (a) There is within the jurisdiction of the board a  
6 Committee on Dental Auxiliaries.

7 (b) The Committee on Dental Auxiliaries shall have the  
8 following areas of responsibility and duties:

9 (1) The committee shall have the following duties and authority  
10 related to education programs and curriculum:

11 (A) Shall evaluate all dental auxiliary programs applying for  
12 board approval in accordance with board rules governing the  
13 programs.

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

17 (C) Shall report and make recommendations to the board as to  
18 whether a program or course qualifies for approval. The board  
19 retains the final authority to grant or deny approval to a program  
20 or course.

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

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

27 (2) The committee shall have the following duties and authority  
28 related to applications:

29 (A) Shall review and evaluate all applications for licensure in  
30 the various dental auxiliary categories to ascertain whether a  
31 candidate meets the appropriate licensing requirements specified  
32 by statute and board regulations.

33 (B) Shall maintain application records, cashier application fees,  
34 and perform any other ministerial tasks as are incidental to the  
35 application process.

36 (C) May delegate any or all of the functions in this paragraph  
37 to its staff.

38 (D) Shall issue auxiliary licenses in all cases, except where there  
39 is a question as to a licensing requirement. The board retains final  
40 authority to interpret any licensing requirement. If a question arises

1 in the area of interpreting any licensing requirement, it shall be  
2 presented by the committee to the board for resolution.

3 (3) The committee shall have the following duties and authority  
4 regarding examinations:

5 (A) Shall advise the board as to the type of license examination  
6 it deems appropriate for the various dental auxiliary license  
7 categories.

8 (B) Shall, at the direction of the board, develop or cause to be  
9 developed, administer, or both, examinations in accordance with  
10 the board's instructions and periodically report to the board on the  
11 progress of those examinations. The following shall apply to the  
12 examination procedure:

13 (i) The examination shall be submitted to the board for its  
14 approval prior to its initial administration.

15 (ii) Once an examination has been approved by the board, no  
16 further approval is required unless a major modification is made  
17 to the examination.

18 (iii) The committee shall report to the board on the results of  
19 each examination and shall, where appropriate, recommend pass  
20 points.

21 (iv) The board shall set pass points for all dental auxiliary  
22 licensing examinations.

23 (C) May appoint board members to any examination committee  
24 established pursuant to subparagraph (B).

25 (4) The committee shall periodically report and make  
26 recommendations to the board concerning the level of fees for  
27 dental auxiliaries and the need for any legislative fee increase.  
28 However, the board retains final authority to set all fees.

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

33 (6) The committee shall have no authority with respect to the  
34 approval of continuing education providers and the board retains  
35 all of this authority.

36 (7) The committee shall advise the board as to appropriate  
37 standards of conduct for auxiliaries, the proper ordering of  
38 enforcement priorities, and any other enforcement-related matters  
39 that the board may, in the future, delegate to the committee. The  
40 board shall retain all authority with respect to the enforcement

1 actions, including, but not limited to, complaint resolution,  
 2 investigation, and disciplinary action against auxiliaries.

3 (8) The committee shall have the following duties regarding  
 4 regulations:

5 (A) To review and evaluate all suggestions or requests for  
 6 regulatory changes related to dental auxiliaries.

7 (B) To report and make recommendations to the board, after  
 8 consultation with departmental legal counsel and the board's  
 9 executive officer.

10 (C) To include in any report regarding a proposed regulatory  
 11 change, at a minimum, the specific language of the proposed  
 12 changes and the reasons for and facts supporting the need for the  
 13 change. The board has the final rulemaking authority.

14 ~~(e) This section shall become inoperative on July 1, 2009, and,  
 15 as of January 1, 2010, is repealed, unless a later enacted statute  
 16 which becomes effective on or before January 1, 2010, deletes or  
 17 extends the dates on which it becomes inoperative and is repealed.  
 18 The repeal of this section renders the committee subject to the  
 19 review required by Division 1.2 (commencing with Section 473).~~

20 *SEC. 29. Section 1751 of the Business and Professions Code,  
 21 as amended by Section 8 of Chapter 621 of the Statutes of 2005,  
 22 is amended to read:*

23 1751. (a) The board, upon recommendation of the committee,  
 24 shall adopt regulations governing the procedures that dental  
 25 assistants, registered orthodontic assistants, registered surgery  
 26 assistants, registered restorative assistants, registered dental  
 27 assistants, registered restorative assistants in extended functions,  
 28 and registered dental assistants in extended functions are authorized  
 29 to perform consistent with and necessary to implement the  
 30 provisions of this article, and the settings within which each may  
 31 practice.

32 (b) The board shall conduct an initial review of the procedures,  
 33 supervision level, settings under which they may be performed,  
 34 and utilization of extended functions dental auxiliaries by January  
 35 1, 2012. The board shall submit the results of its review to the ~~Joint~~  
 36 ~~Committee on Boards, Commissions, and Consumer Protection~~  
 37 *Legislature and the Office of the Consumer Advocate.* After the  
 38 initial review, a review shall be conducted at least once every five  
 39 to seven years thereafter, and the board shall update regulations  
 40 as necessary to keep them current with the state of dental practice.

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

2 *SEC. 30. Section 2001 of the Business and Professions Code*  
3 *is amended to read:*

4 2001. There is in the Department of Consumer Affairs a  
5 Medical Board of California that consists of 21 members, nine of  
6 whom shall be public members.

7 The Governor shall appoint 19 members to the board, subject  
8 to confirmation by the Senate, seven of whom shall be public  
9 members. The Senate Rules Committee and the Speaker of the  
10 Assembly shall each appoint a public member, and their initial  
11 appointment shall be made to fill, respectively, the first and second  
12 public member vacancies that occur on or after January 1, 1983.

13 ~~This section shall become inoperative on July 1, 2010, and, as~~  
14 ~~of January 1, 2011, is repealed, unless a later enacted statute, which~~  
15 ~~becomes effective on or before January 1, 2011, deletes or extends~~  
16 ~~the dates on which it becomes inoperative and is repealed. The~~  
17 ~~repeal of this section renders the board subject to the review~~  
18 ~~required by Division 1.2 (commencing with Section 473).~~

19 *SEC. 31. Section 2460 of the Business and Professions Code*  
20 *is amended to read:*

21 2460. There is created within the jurisdiction of the Medical  
22 Board of California and its divisions the California Board of  
23 Podiatric Medicine. ~~This section shall become inoperative on July~~  
24 ~~1, 2010, and, as of January 1, 2011, is repealed, unless a later~~  
25 ~~enacted statute, which becomes effective on or before January 1,~~  
26 ~~2011, deletes or extends the dates on which it becomes inoperative~~  
27 ~~and is repealed. The repeal of this section renders the California~~  
28 ~~Board of Podiatric Medicine subject to the review required by~~  
29 ~~Division 1.2 (commencing with Section 473).~~

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

32 2531. There is in the Department of Consumer Affairs a  
33 Speech-Language Pathology and Audiology Board in which the  
34 enforcement and administration of this chapter is vested. The  
35 Speech-Language Pathology and Audiology Board shall consist  
36 of nine members, three of whom shall be public members.

37 ~~This section shall become inoperative on July 1, 2008, and, as~~  
38 ~~of January 1, 2009, is repealed, unless a later enacted statute, that~~  
39 ~~becomes effective on or before January 1, 2009, deletes or extends~~  
40 ~~the inoperative and repeal dates. The repeal of this section renders~~

1 the board subject to the review required by Division 1.2  
2 (commencing with Section 473).

3 *SEC. 33. Section 2569 of the Business and Professions Code*  
4 *is repealed.*

5 2569. The powers and duties of the board, as set forth in this  
6 chapter, shall be subject to the review required by Division 1.2  
7 (commencing with Section 473). The review shall be performed  
8 as if this chapter were scheduled to become inoperative on July 1,  
9 2003, and would be repealed as of January 1, 2004, as described  
10 in Section 473.1.

11 *SEC. 34. Section 2570.19 of the Business and Professions Code*  
12 *is amended to read:*

13 2570.19. (a) There is hereby created a California Board of  
14 Occupational Therapy, hereafter referred to as the board. The board  
15 shall enforce and administer this chapter.

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

17 (1) Three occupational therapists who shall have practiced  
18 occupational therapy for five years.

19 (2) One occupational therapy assistant who shall have assisted  
20 in the practice of occupational therapy for five years.

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

23 (c) The Governor shall appoint the three occupational therapists  
24 and one occupational therapy assistant to be members of the board.  
25 The Governor, the Senate Rules Committee, and the Speaker of  
26 the Assembly shall each appoint a public member. Not more than  
27 one member of the board shall be appointed from the full-time  
28 faculty of any university, college, or other educational institution.

29 (d) All members shall be residents of California at the time of  
30 their appointment. The occupational therapist and occupational  
31 therapy assistant members shall have been engaged in rendering  
32 occupational therapy services to the public, teaching, or research  
33 in occupational therapy for at least five years preceding their  
34 appointments.

35 (e) The public members may not be or have ever been  
36 occupational therapists or occupational therapy assistants or in  
37 training to become occupational therapists or occupational therapy  
38 assistants. The public members may not be related to, or have a  
39 household member who is, an occupational therapist or an  
40 occupational therapy assistant, and may not have had, within two

1 years of the appointment, a substantial financial interest in a person  
2 regulated by the board.

3 (f) The Governor shall appoint two board members for a term  
4 of one year, two board members for a term of two years, and one  
5 board member for a term of three years. Appointments made  
6 thereafter shall be for four-year terms, but no person shall be  
7 appointed to serve more than two consecutive terms. Terms shall  
8 begin on the first day of the calendar year and end on the last day  
9 of the calendar year or until successors are appointed, except for  
10 the first appointed members who shall serve through the last  
11 calendar day of the year in which they are appointed, before  
12 commencing the terms prescribed by this section. Vacancies shall  
13 be filled by appointment for the unexpired term. The board shall  
14 annually elect one of its members as president.

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

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

24 (i) Members of the board shall receive no compensation for  
25 their services, but shall be entitled to reasonable travel and other  
26 expenses incurred in the execution of their powers and duties in  
27 accordance with Section 103.

28 (j) The appointing power shall have the power to remove any  
29 member of the board from office for neglect of any duty imposed  
30 by state law, for incompetency, or for unprofessional or  
31 dishonorable conduct.

32 (k) A loan is hereby authorized from the General Fund to the  
33 Occupational Therapy Fund on or after July 1, 2000, in an amount  
34 of up to one million dollars (\$1,000,000) to fund operating,  
35 personnel, and other startup costs of the board. Six hundred ten  
36 thousand dollars (\$610,000) of this loan amount is hereby  
37 appropriated to the board to use in the 2000–01 fiscal year for the  
38 purposes described in this subdivision. In subsequent years, funds  
39 from the Occupational Therapy Fund shall be available to the board  
40 upon appropriation by the Legislature in the annual Budget Act.

1 The loan shall be repaid to the General Fund over a period of up  
2 to five years, and the amount paid shall also include interest at the  
3 rate accruing to moneys in the Pooled Money Investment Account.  
4 The loan amount and repayment period shall be minimized to the  
5 extent possible based upon actual board financing requirements  
6 as determined by the Department of Finance.

7 ~~(f) This section shall become inoperative on July 1, 2013, and,  
8 as of January 1, 2014, is repealed, unless a later enacted statute  
9 that is enacted before January 1, 2014, deletes or extends the dates  
10 on which it becomes inoperative and is repealed. The repeal of  
11 this section renders the board subject to the review required by  
12 Division 1.2 (commencing with Section 473).~~

13 *SEC. 35. Section 2602 of the Business and Professions Code*  
14 *is amended to read:*

15 2602. The Physical Therapy Board of California, hereafter  
16 referred to as the board, shall enforce and administer this chapter.  
17 ~~This section shall become inoperative on July 1, 2013, and, as of  
18 January 1, 2014, is repealed, unless a later enacted statute, which  
19 becomes effective on or before January 1, 2014, deletes or extends  
20 the dates on which it becomes inoperative and is repealed.~~

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

23 *SEC. 36. Section 2701 of the Business and Professions Code*  
24 *is amended to read:*

25 2701. There is in the Department of Consumer Affairs the  
26 Board of Registered Nursing consisting of nine members.

27 Within the meaning of this chapter, board, or the board, refers  
28 to the Board of Registered Nursing. Any reference in state law to  
29 the Board of Nurse Examiners of the State of California or  
30 California Board of Nursing Education and Nurse Registration  
31 shall be construed to refer to the Board of Registered Nursing.

32 ~~This section shall become inoperative on July 1, 2010, and, as  
33 of January 1, 2011, is repealed, unless a later enacted statute, that  
34 becomes operative on or before January 1, 2011, deletes or extends  
35 the dates on which it becomes inoperative and is repealed. The  
36 repeal of this section renders the board subject to the review  
37 required by Division 1.2 (commencing with Section 473).~~

38 *SEC. 37. Section 2841 of the Business and Professions Code*  
39 *is amended to read:*

1 2841. There is in the Department of Consumer Affairs a Board  
2 of Vocational Nursing and Psychiatric Technicians of the State of  
3 California, consisting of 11 members.

4 Within the meaning of this chapter, board, or the board, refers  
5 to the Board of Vocational Nursing and Psychiatric Technicians  
6 of the State of California.

7 ~~This section shall become inoperative on July 1, 2008, and, as~~  
8 ~~of January 1, 2009, is repealed, unless a later enacted statute, which~~  
9 ~~becomes effective on or before January 1, 2009, deletes or extends~~  
10 ~~the dates on which it becomes inoperative and is repealed. The~~  
11 ~~repeal of this section renders the board subject to the review~~  
12 ~~required by Division 1.2 (commencing with Section 473).~~

13 *SEC. 38. Section 2920 of the Business and Professions Code*  
14 *is amended to read:*

15 2920. The Board of Psychology shall enforce and administer  
16 this chapter. The board shall consist of nine members, four of  
17 whom shall be public members.

18 ~~This section shall become inoperative on July 1, 2009, and, as~~  
19 ~~of January 1, 2010, is repealed, unless a later enacted statute, which~~  
20 ~~becomes effective on or before January 1, 2010, deletes or extends~~  
21 ~~the dates on which it becomes inoperative and is repealed.~~

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

24 3010.5. (a) There is in the Department of Consumer Affairs  
25 a State Board of Optometry in which the enforcement of this  
26 chapter is vested. The board consists of 11 members, five of whom  
27 shall be public members.

28 Six members of the board shall constitute a quorum.

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

34 ~~(c) This section shall remain in effect only until July 1, 2010,~~  
35 ~~and, as of January 1, 2011, is repealed, unless a later enacted~~  
36 ~~statute, that is enacted before January 1, 2011, deletes or extends~~  
37 ~~that date.~~

38 *SEC. 40. Section 3502.1 of the Business and Professions Code*  
39 *is amended to read:*

1 3502.1. (a) In addition to the services authorized in the  
2 regulations adopted by the board, and except as prohibited by  
3 Section 3502, while under the supervision of a licensed physician  
4 and surgeon or physicians and surgeons authorized by law to  
5 supervise a physician assistant, a physician assistant may  
6 administer or provide medication to a patient, or transmit orally,  
7 or in writing on a patient's record or in a drug order, an order to a  
8 person who may lawfully furnish the medication or medical device  
9 pursuant to subdivisions (c) and (d).

10 (1) A supervising physician and surgeon who delegates authority  
11 to issue a drug order to a physician assistant may limit this authority  
12 by specifying the manner in which the physician assistant may  
13 issue delegated prescriptions.

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

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

38 (c) A drug order for any patient cared for by the physician  
39 assistant that is issued by the physician assistant shall either be  
40 based on the protocols described in subdivision (a) or shall be

1 approved by the supervising physician before it is filled or carried  
2 out.

3 (1) A physician assistant shall not administer or provide a drug  
4 or issue a drug order for a drug other than for a drug listed in the  
5 formulary without advance approval from a supervising physician  
6 and surgeon for the particular patient. At the direction and under  
7 the supervision of a physician and surgeon, a physician assistant  
8 may hand to a patient of the supervising physician and surgeon a  
9 properly labeled prescription drug prepackaged by a physician and  
10 surgeon, manufacturer as defined in the Pharmacy Law, or a  
11 pharmacist.

12 (2) A physician assistant may not administer, provide or issue  
13 a drug order for Schedule II through Schedule V controlled  
14 substances without advance approval by a supervising physician  
15 and surgeon for the particular patient.

16 (3) Any drug order issued by a physician assistant shall be  
17 subject to a reasonable quantitative limitation consistent with  
18 customary medical practice in the supervising physician and  
19 surgeon's practice.

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

37 (e) The medical record of any patient cared for by a physician  
38 assistant for whom the supervising physician and surgeon's  
39 Schedule II drug order has been issued or carried out shall be

1 reviewed and countersigned and dated by a supervising physician  
2 and surgeon within seven days.

3 (f) All physician assistants who are authorized by their  
4 supervising physicians to issue drug orders for controlled  
5 substances shall register with the United States Drug Enforcement  
6 Administration (DEA).

7 (g) The committee shall consult with the Medical Board of  
8 California and report ~~during its sunset review required by Division~~  
9 ~~1.2 (commencing with Section 473) to the Legislature and the~~  
10 ~~Office of the Consumer Advocate periodically, as necessary, on~~  
11 ~~the impacts of exempting Schedule III and Schedule IV drug orders~~  
12 ~~from the requirement for a physician and surgeon to review and~~  
13 ~~countersign the affected medical record of a patient.~~

14 *SEC. 41. Section 3504 of the Business and Professions Code*  
15 *is amended to read:*

16 3504. There is established a Physician Assistant Committee  
17 of the Medical Board of California. The committee consists of  
18 nine members. ~~This section shall become inoperative on July 1,~~  
19 ~~2011, and, as of January 1, 2012, is repealed, unless a later enacted~~  
20 ~~statute, which becomes effective on or before January 1, 2012,~~  
21 ~~deletes or extends the dates on which it becomes inoperative and~~  
22 ~~is repealed. The repeal of this section renders the committee subject~~  
23 ~~to the review required by Division 1.2 (commencing with Section~~  
24 ~~473).~~

25 *SEC. 42. Section 3685 of the Business and Professions Code*  
26 *is amended to read:*

27 3685. (a) ~~The provisions of Article 8 (commencing with~~  
28 ~~Section 3680) shall become operative on January 1, 2004, but the~~  
29 ~~remaining provisions of this chapter shall become operative on~~  
30 ~~July 1, 2004. It is the intent of the Legislature that the initial~~  
31 ~~implementation of this chapter be administered by fees collected~~  
32 ~~in advance from applicants. Therefore, the bureau shall have the~~  
33 ~~power and authority to establish fees and receive applications for~~  
34 ~~licensure or intents to file application statements on and after~~  
35 ~~January 1, 2004. The department shall certify that sufficient funds~~  
36 ~~are available prior to implementing this chapter. Funds from the~~  
37 ~~General Fund may not be used for the purpose of implementing~~  
38 ~~this chapter.~~

39 (b) ~~This chapter shall become inoperative on July 1, 2010, and,~~  
40 ~~as of January 1, 2011, is repealed, unless a later enacted statute~~

1 that is enacted before January 1, 2011, deletes or extends the dates  
2 on which it becomes inoperative and is repealed. The repeal of  
3 this chapter renders the bureau subject to the review required by  
4 Division 1.2 (commencing with Section 473):

5 (e) The bureau shall prepare the report required by Section 473.2  
6 no later than September 1, 2008.

7 *SEC. 43. Section 3710 of the Business and Professions Code*  
8 *is amended to read:*

9 3710. The Respiratory Care Board of California, hereafter  
10 referred to as the board, shall enforce and administer this chapter.

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

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

17 *SEC. 44. Section 4001 of the Business and Professions Code*  
18 *is amended to read:*

19 4001. (a) There is in the Department of Consumer Affairs a  
20 California State Board of Pharmacy in which the administration  
21 and enforcement of this chapter is vested. The board consists of  
22 13 members.

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

30 (c) At least five of the seven pharmacist appointees to the board  
31 shall be pharmacists who are actively engaged in the practice of  
32 pharmacy. Additionally, the membership of the board shall include  
33 at least one pharmacist representative from each of the following  
34 practice settings: an acute care hospital, an independent community  
35 pharmacy, a chain community pharmacy, and a long-term health  
36 care or skilled nursing facility. The pharmacist appointees shall  
37 also include a pharmacist who is a member of a labor union that  
38 represents pharmacists. For the purposes of this subdivision, a  
39 “chain community pharmacy” means a chain of 75 or more stores  
40 in California under the same ownership, and an “independent

1 community pharmacy” means a pharmacy owned by a person or  
2 entity who owns no more than four pharmacies in California.

3 (d) Members of the board shall be appointed for a term of four  
4 years. No person shall serve as a member of the board for more  
5 than two consecutive terms. Each member shall hold office until  
6 the appointment and qualification of his or her successor or until  
7 one year shall have elapsed since the expiration of the term for  
8 which the member was appointed, whichever first occurs.  
9 Vacancies occurring shall be filled by appointment for the  
10 unexpired term.

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

13 ~~(f) In accordance with Sections 101.1 and 473.1, this section  
14 shall become inoperative on July 1, 2010, and, as of January 1,  
15 2011, is repealed, unless a later enacted statute, that becomes  
16 effective on or before January 1, 2011, deletes or extends the dates  
17 on which it becomes inoperative and is repealed. The repeal of  
18 this section renders the board subject to the review required by  
19 Division 1.2 (commencing with Section 473).~~

20 *SEC. 45. Section 4003 of the Business and Professions Code*  
21 *is amended to read:*

22 4003. (a) The board may appoint a person exempt from civil  
23 service who shall be designated as an executive officer and who  
24 shall exercise the powers and perform the duties delegated by the  
25 board and vested in him or her by this chapter. The executive  
26 officer may or may not be a member of the board as the board may  
27 determine.

28 (b) The executive officer shall receive the compensation as  
29 established by the board with the approval of the Director of  
30 Finance. The executive officer shall also be entitled to travel and  
31 other expenses necessary in the performance of his or her duties.

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

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

1 ~~(e) In accordance with Sections 101.1 and 473.1, this section~~  
2 ~~shall become inoperative on July 1, 2010, and, as of January 1,~~  
3 ~~2011, is repealed, unless a later enacted statute, that becomes~~  
4 ~~effective on or before January 1, 2011, deletes or extends the dates~~  
5 ~~on which it becomes inoperative and is repealed.~~

6 *SEC. 46. Section 4200.1 of the Business and Professions Code*  
7 *is amended to read:*

8 4200.1. (a) Notwithstanding Section 135, an applicant may  
9 take the North American Pharmacist Licensure Examination four  
10 times, and may take the Multi-State Pharmacy Jurisprudence  
11 Examination for California four times.

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

18 (c) The applicant shall comply with the requirements of Section  
19 4200 for each application for reexamination made pursuant to  
20 subdivision (b).

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

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

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

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

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

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

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

12 *SEC. 47. Section 4200.3 of the Business and Professions Code*  
13 *is amended to read:*

14 4200.3. (a) The examination process shall be regularly  
15 reviewed pursuant to Section 139.

16 (b) The examination process shall meet the standards and  
17 guidelines set forth in the Standards for Educational and  
18 Psychological Testing and the Federal Uniform Guidelines for  
19 Employee Selection Procedures. The board shall work with the  
20 Office of Examination Resources of the department or with an  
21 equivalent organization who shall certify at minimum once every  
22 five years that the examination process meets these national testing  
23 standards. If the department determines that the examination  
24 process fails to meet these standards, the board shall terminate its  
25 use of the North American Pharmacy Licensure Examination and  
26 shall use only the written and practical examination developed by  
27 the board.

28 (c) The examination shall meet the mandates of subdivision (a)  
29 of Section 12944 of the Government Code.

30 (d) The board shall work with the Office of Examination  
31 Resources or with an equivalent organization to develop the state  
32 jurisprudence examination to ensure that applicants for licensure  
33 are evaluated on their knowledge of applicable state laws and  
34 regulations.

35 (e) The board shall annually publish the pass and fail rates for  
36 the pharmacist's licensure examination administered pursuant to  
37 Section 4200, including a comparison of historical pass and fail  
38 rates before utilization of the North American Pharmacist Licensure  
39 Examination.

1 (f) The board shall *annually* report to the ~~Joint Committee on~~  
2 ~~Boards, Commissions, and Consumer Protection~~ *Legislature, the*  
3 *Office of the Consumer Advocate,* and the department ~~as part of~~  
4 ~~its next scheduled review,~~ the pass rates of applicants who sat for  
5 the national examination compared with the pass rates of applicants  
6 who sat for the prior state examination. This report shall be a  
7 component of the evaluation of the examination process that is  
8 based on psychometrically sound principles for establishing  
9 minimum qualifications and levels of competency.

10 *SEC. 48. Section 4501 of the Business and Professions Code*  
11 *is amended to read:*

12 4501. ~~(a)~~ “Board,” as used in this chapter, means the Board  
13 of Vocational Nursing and Psychiatric Technicians.

14 ~~(b) This section shall become inoperative on July 1, 2008, and,~~  
15 ~~as of January 1, 2009, is repealed, unless a later enacted statute,~~  
16 ~~which becomes effective on or before January 1, 2009, deletes or~~  
17 ~~extends the dates on which it becomes inoperative and is repealed.~~

18 *SEC. 49. Section 4800 of the Business and Professions Code*  
19 *is amended to read:*

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

24 ~~This section shall become inoperative on July 1, 2011, and, as~~  
25 ~~of January 1, 2012, is repealed, unless a later enacted statute, which~~  
26 ~~becomes effective on or before January 1, 2012, deletes or extends~~  
27 ~~the dates on which it becomes inoperative and is repealed.~~

28 ~~The repeal of this section renders the board subject to the review~~  
29 ~~provided for by Division 1.2 (commencing with Section 473).~~

30 *SEC. 50. Section 4928 of the Business and Professions Code*  
31 *is amended to read:*

32 4928. The Acupuncture Board, which consists of seven  
33 members, shall enforce and administer this chapter. The appointing  
34 powers, as described in Section 4929, may appoint to the board a  
35 person who was a member of the prior board prior to the repeal of  
36 that board on January 1, 2006.

37 ~~This section shall become inoperative on July 1, 2009, and, as~~  
38 ~~of January 1, 2010, is repealed, unless a later enacted statute, which~~  
39 ~~becomes effective on or before January 1, 2010, deletes or extends~~  
40 ~~the dates on which it becomes inoperative and is repealed.~~

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

3 *SEC. 51. Section 4989 of the Business and Professions Code*  
4 *is repealed.*

5 4989. The powers and duties of the board, as set forth in this  
6 chapter, shall be subject to the review required by Division 1.2  
7 (commencing with Section 473). The review shall be performed  
8 as if this chapter were scheduled to become inoperative on July 1,  
9 2005, and would be repealed as of January 1, 2006, as described  
10 in Section 473.1.

11 *SEC. 52. Section 4990 of the Business and Professions Code*  
12 *is amended to read:*

13 4990. (a) There is in the Department of Consumer Affairs, a  
14 Board of Behavioral Sciences that consists of 11 members  
15 composed as follows:

- 16 (1) Two state licensed clinical social workers.
- 17 (2) One state licensed educational psychologist.
- 18 (3) Two state licensed marriage and family therapists.
- 19 (4) Six public members.

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

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

23 (d) The Governor shall appoint four of the public members and  
24 the five licensed members with the advice and consent of the  
25 Senate. The Senate Committee on Rules and the Speaker of the  
26 Assembly shall each appoint a public member.

27 (e) Each member of the board shall be appointed for a term of  
28 four years. A member appointed by the Speaker of the Assembly  
29 or the Senate Committee on Rules shall hold office until the  
30 appointment and qualification of his or her successor or until one  
31 year from the expiration date of the term for which he or she was  
32 appointed, whichever first occurs. Pursuant to Section 1774 of the  
33 Government Code, a member appointed by the Governor shall  
34 hold office until the appointment and qualification of his or her  
35 successor or until 60 days from the expiration date of the term for  
36 which he or she was appointed, whichever first occurs.

37 (f) A vacancy on the board shall be filled by appointment for  
38 the unexpired term by the authority who appointed the member  
39 whose membership was vacated.

1 (g) Not later than the first of June of each calendar year, the  
2 board shall elect a chairperson and a vice chairperson from its  
3 membership.

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

6 ~~(i) This section shall become inoperative on July 1, 2009, and,  
7 as of January 1, 2010, is repealed, unless a later enacted statute,  
8 that is enacted before January 1, 2010, deletes or extends the dates  
9 on which it becomes inoperative and is repealed.~~

10 *SEC. 53. Section 4990.24 of the Business and Professions Code*  
11 *is repealed.*

12 ~~4990.24. The powers and duties of the board, as set forth in  
13 this chapter, shall be subject to the review required by Division  
14 1.2 (commencing with Section 473).~~

15 *SEC. 54. Section 5000 of the Business and Professions Code*  
16 *is amended to read:*

17 5000. There is in the Department of Consumer Affairs the  
18 California Board of Accountancy, which consists of 15 members,  
19 seven of whom shall be licensees, and eight of whom shall be  
20 public members who shall not be licentiates of the board or  
21 registered by the board. The board has the powers and duties  
22 conferred by this chapter.

23 The Governor shall appoint four of the public members, and the  
24 seven licensee members as provided in this section. The Senate  
25 ~~Rules Committee~~ *Committee on Rules* and the Speaker of the  
26 Assembly shall each appoint two public members. In appointing  
27 the seven licensee members, the Governor shall appoint members  
28 representing a cross section of the accounting profession with at  
29 least two members representing a small public accounting firm.  
30 For the purposes of this chapter, a small public accounting firm  
31 shall be defined as a professional firm that employs a total of no  
32 more than four licensees as partners, owners, or full-time  
33 employees in the practice of public accountancy within the State  
34 of California.

35 ~~This section shall become inoperative on July 1, 2011, and as  
36 of January 1, 2012, is repealed, unless a later enacted statute, that  
37 becomes effective on or before January 1, 2012, deletes or extends  
38 the dates on which this section becomes inoperative and is repealed.  
39 The repeal of this section renders the board subject to the review  
40 required by Division 1.2 (commencing with Section 473).~~

1 ~~However, the review of the board shall be limited to reports or~~  
2 ~~studies specified in this chapter and those issues identified by the~~  
3 ~~Joint Committee on Boards, Commissions, and Consumer~~  
4 ~~Protection and the board regarding the implementation of new~~  
5 ~~licensing requirements.~~

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

8 5510. There is in the Department of Consumer Affairs a  
9 California Architects Board which consists of 10 members.

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

12 ~~This section shall become inoperative on July 1, 2011, and, as~~  
13 ~~of January 1, 2012, is repealed, unless a later enacted statute, which~~  
14 ~~becomes effective on or before January 1, 2012, deletes or extends~~  
15 ~~the dates on which it becomes inoperative and is repealed. The~~  
16 ~~repeal of this section renders the board subject to the review~~  
17 ~~required by Division 1.2 (commencing with Section 473).~~

18 *SEC. 56. Section 5621 of the Business and Professions Code*  
19 *is amended to read:*

20 5621. (a) There is hereby created within the jurisdiction of the  
21 board, a Landscape Architects Technical Committee, hereinafter  
22 referred to in this chapter as the landscape architects committee.

23 (b) The landscape architects committee shall consist of five  
24 members who shall be licensed to practice landscape architecture  
25 in this state. The Governor shall appoint three of the members.  
26 The Senate Committee on Rules and the Speaker of the Assembly  
27 shall appoint one member each.

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

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

1 ~~(e) This section shall become inoperative on July 1, 2011, and,~~  
2 ~~as of January 1, 2012, is repealed, unless a later enacted statute,~~  
3 ~~that becomes operative on or before January 1, 2012, deletes or~~  
4 ~~extends the dates on which it becomes inoperative and is repealed.~~

5 *SEC. 57. Section 5810 of the Business and Professions Code*  
6 *is amended to read:*

7 5810. ~~(a) This chapter shall be subject to the review required~~  
8 ~~by Division 1.2 (commencing with Section 473) process described~~  
9 ~~in Division 1.3 (commencing with Section 474.20).~~

10 ~~(b) This chapter shall remain in effect only until January 1,~~  
11 ~~2010, and as of that date is repealed, unless a later enacted statute,~~  
12 ~~that is enacted before January 1, 2010, deletes or extends that date.~~

13 *SEC. 58. Section 5811 of the Business and Professions Code*  
14 *is amended to read:*

15 5811. An interior design organization issuing stamps under  
16 Section 5801 shall provide to the ~~Joint Committee on Boards,~~  
17 ~~Commissions, and Consumer Protection Legislature and the Office~~  
18 ~~of the Consumer Advocate~~ by September 1, 2008, a report that  
19 reviews and assesses the costs and benefits associated with the  
20 California Code and Regulations Examination and explores feasible  
21 alternatives to that examination.

22 *SEC. 59. Section 6510 of the Business and Professions Code*  
23 *is amended to read:*

24 6510. (a) There is within the jurisdiction of the department  
25 the Professional Fiduciaries Bureau. The bureau is under the  
26 supervision and control of the director. The duty of enforcing and  
27 administering this chapter is vested in the chief of the bureau, who  
28 is responsible to the director. Every power granted or duty imposed  
29 upon the director under this chapter may be exercised or performed  
30 in the name of the director by a deputy director or by the chief,  
31 subject to conditions and limitations as the director may prescribe.

32 (b) The Governor shall appoint, subject to confirmation by the  
33 Senate, the chief of the bureau, at a salary to be fixed and  
34 determined by the director with the approval of the Director of  
35 Finance. The chief shall serve under the direction and supervision  
36 of the director and at the pleasure of the Governor.

37 ~~(e) This section shall become inoperative on July 1, 2011, and,~~  
38 ~~as of January 1, 2012, is repealed, unless a later enacted statute,~~  
39 ~~that becomes operative on or before January 1, 2011, deletes or~~  
40 ~~extends the dates on which it becomes inoperative and is repealed.~~

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

3 Notwithstanding any other provision of law, upon the repeal of  
4 this section, the responsibilities and jurisdiction of the bureau shall  
5 be transferred to the Professional Fiduciaries Advisory Committee,  
6 as provided by Section 6511.

7 *SEC. 60. Section 6511 of the Business and Professions Code*  
8 *is amended to read:*

9 6511. (a) There is within the bureau a Professional Fiduciaries  
10 Advisory Committee. The committee shall consist of seven  
11 members; three of whom shall be licensees actively engaged as  
12 professional fiduciaries in this state, and four of whom shall be  
13 public members. One of the public members shall be a member  
14 of a nonprofit organization advocating on behalf of the elderly,  
15 and one of the public members shall be a probate court investigator.

16 (b) Each member of the committee shall be appointed for a term  
17 of four years, and shall hold office until the appointment of his or  
18 her successor or until one year shall have elapsed since the  
19 expiration of the term for which he or she was appointed,  
20 whichever first occurs.

21 (c) Vacancies shall be filled by the appointing power for the  
22 unexpired portion of the terms in which they occur. No person  
23 shall serve as a member of the committee for more than two  
24 consecutive terms.

25 (d) The Governor shall appoint the member from a nonprofit  
26 organization advocating on behalf of the elderly, the probate court  
27 investigator, and the three licensees. The Senate Committee on  
28 Rules and the Speaker of the Assembly shall each appoint a public  
29 member.

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

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

33 (1) Examine the functions and policies of the bureau and make  
34 recommendations with respect to policies, practices, and  
35 regulations as may be deemed important and necessary by the  
36 director or the chief to promote the interests of consumers or that  
37 otherwise promote the welfare of the public.

38 (2) Consider and make appropriate recommendations to the  
39 bureau in any matter relating to professional fiduciaries in this  
40 state.

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

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

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

7 ~~(h) Notwithstanding any other provision of law, if the bureau  
8 becomes inoperative or is repealed in accordance with Section  
9 6510, or by subsequent acts, the committee shall succeed to and  
10 is vested with all the duties, powers, purposes, responsibilities,  
11 and jurisdiction, not otherwise repealed or made inoperative, of  
12 the bureau and its chief. The succession of the committee to the  
13 functions of the bureau as provided in this subdivision shall  
14 establish the committee as the Professional Fiduciaries Committee  
15 in the department within the meaning of Section 22, and all  
16 references to the bureau in this code shall be considered as  
17 references to the committee.~~

18 *SEC. 61. Section 6710 of the Business and Professions Code*  
19 *is amended to read:*

20 6710. (a) There is in the Department of Consumer Affairs a  
21 Board for Professional Engineers and Land Surveyors, which  
22 consists of 13 members.

23 (b) Any reference in any law or regulation to the Board of  
24 Registration for Professional Engineers and Land Surveyors is  
25 deemed to refer to the Board for Professional Engineers and Land  
26 Surveyors.

27 ~~(c) This section shall become inoperative on July 1, 2011, and,  
28 as of January 1, 2012, is repealed, unless a later enacted statute,  
29 that becomes effective on or before January 1, 2012, deletes or  
30 extends the dates on which it becomes inoperative and is repealed.  
31 The repeal of this section renders the board subject to the review  
32 required by Division 1.2 (commencing with Section 473).~~

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

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

37 ~~(b) The repeal of this section renders the board subject to the  
38 review required by Division 1.2 (commencing with Section 473).  
39 However, the review of this board by the department shall be~~

1 ~~limited to only those unresolved issues identified by the Joint~~  
2 ~~Committee on Boards, Commissions, and Consumer Protection.~~

3 ~~(e) This section shall become inoperative on July 1, 2009, and,~~  
4 ~~as of January 1, 2010, is repealed, unless a later enacted statute,~~  
5 ~~which becomes effective on or before January 1, 2010, deletes or~~  
6 ~~extends the dates on which it becomes inoperative and is repealed.~~  
7 ~~The repeal of this section renders the board subject to the review~~  
8 ~~required by Division 1.2 (commencing with Section 473).~~

9 *SEC. 63. Section 7200 of the Business and Professions Code*  
10 *is amended to read:*

11 7200. ~~(a)~~ There is in the Department of Consumer Affairs a  
12 State Board of Guide Dogs for the Blind in whom enforcement of  
13 this chapter is vested. The board shall consist of seven members  
14 appointed by the Governor. One member shall be the Director of  
15 Rehabilitation or his or her designated representative. The  
16 remaining members shall be persons who have shown a particular  
17 interest in dealing with the problems of the blind, and at least two  
18 of them shall be blind persons who use guide dogs.

19 ~~(b) This section shall become inoperative on July 1, 2011, and,~~  
20 ~~as of January 1, 2012, is repealed, unless a later enacted statute,~~  
21 ~~which becomes effective on or before January 1, 2012, deletes or~~  
22 ~~extends the dates on which it becomes inoperative and is repealed.~~

23 *SEC. 64. Section 7303 of the Business and Professions Code*  
24 *is amended to read:*

25 7303. (a) Notwithstanding Article 8 (commencing with Section  
26 9148) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of the  
27 Government Code, there is in the Department of Consumer Affairs  
28 the State Board of Barbering and Cosmetology in which the  
29 administration of this chapter is vested.

30 (b) The board shall consist of nine members. Five members  
31 shall be public members and four members shall represent the  
32 professions. The Governor shall appoint three of the public  
33 members and the four professions members. The Senate Committee  
34 on Rules and the Speaker of the Assembly shall each appoint one  
35 public member. Members of the board shall be appointed for a  
36 term of four years, except that of the members appointed by the  
37 Governor, two of the public members and two of the professions  
38 members shall be appointed for an initial term of two years. No  
39 board member may serve longer than two consecutive terms.

1 (c) The board shall appoint an executive officer who is exempt  
2 from civil service. The executive officer shall exercise the powers  
3 and perform the duties delegated by the board and vested in him  
4 or her by this chapter. The appointment of the executive officer is  
5 subject to the approval of the director. In the event that a newly  
6 authorized board replaces an existing or previous bureau, the  
7 director may appoint an interim executive officer for the board  
8 who shall serve temporarily until the new board appoints a  
9 permanent executive officer.

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

13 ~~(e) This section shall become inoperative on July 1, 2008, and,~~  
14 ~~as of January 1, 2009, is repealed, unless a later enacted statute,~~  
15 ~~which becomes effective on or before January 1, 2009, deletes or~~  
16 ~~extends the dates on which it becomes inoperative and is repealed.~~

17 *SEC. 65. Section 7304 of the Business and Professions Code*  
18 *is repealed.*

19 ~~7304. The board shall be subject to review pursuant to Division~~  
20 ~~1.2 (commencing with Section 473):~~

21 *SEC. 66. Section 7810 of the Business and Professions Code*  
22 *is amended to read:*

23 7810. The Board for Geologists and Geophysicists is within  
24 the department and is subject to the jurisdiction of the department.  
25 Except as provided in this section, the board shall consist of eight  
26 members, five of whom shall be public members, two of whom  
27 shall be geologists, and one of whom shall be a geophysicist.

28 Each member shall hold office until the appointment and  
29 qualification of the member's successor or until one year has  
30 elapsed from the expiration of the term for which the member was  
31 appointed, whichever occurs first. Vacancies occurring prior to  
32 the expiration of the term shall be filled by appointment for the  
33 remainder of the unexpired term.

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

38 The Governor shall appoint three of the public members and the  
39 three members qualified as provided in Section 7811. The Senate  
40 Committee on Rules and the Speaker of the Assembly shall each

1 appoint a public member, and their initial appointment shall be  
2 made to fill, respectively, the first and second public member  
3 vacancies that occurred on or after January 1, 1983.

4 At the time the first vacancy is created by the expiration of the  
5 term of a public member appointed by the Governor, the board  
6 shall be reduced to consist of seven members, four of whom shall  
7 be public members, two of whom shall be geologists, and one of  
8 whom shall be a geophysicist. Notwithstanding any other provision  
9 of law, the term of that member shall not be extended for any  
10 reason, except as provided in this section.

11 ~~This section shall become inoperative on July 1, 2009, and, as~~  
12 ~~of January 1, 2010, is repealed, unless a later enacted statute, that~~  
13 ~~becomes operative on or before January 1, 2010, deletes or extends~~  
14 ~~the dates on which it becomes inoperative and is repealed. The~~  
15 ~~repeal of this section renders the board subject to the review~~  
16 ~~required by Division 1.2 (commencing with Section 473).~~

17 *SEC. 67. Section 8000 of the Business and Professions Code*  
18 *is amended to read:*

19 8000. There is in the Department of Consumer Affairs a Court  
20 Reporters Board of California, which consists of five members,  
21 three of whom shall be public members and two of whom shall be  
22 holders of certificates issued under this chapter who have been  
23 actively engaged as shorthand reporters within this state for at least  
24 five years immediately preceding their appointment.

25 ~~This section shall become inoperative on July 1, 2009, and, as~~  
26 ~~of January 1, 2010, is repealed, unless a later enacted statute, which~~  
27 ~~becomes effective on or before January 1, 2010, deletes or extends~~  
28 ~~the dates on which it becomes inoperative and is repealed.~~

29 *SEC. 68. Section 8520 of the Business and Professions Code*  
30 *is amended to read:*

31 8520. (a) There is in the Department of Consumer Affairs a  
32 Structural Pest Control Board, which consists of seven members.

33 (b) Subject to the jurisdiction conferred upon the director by  
34 Division 1 (commencing with Section 100) of this code, the board  
35 is vested with the power to and shall administer the provisions of  
36 this chapter.

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

39 ~~(d) This section shall become inoperative on July 1, 2011, and,~~  
40 ~~as of January 1, 2012, is repealed, unless a later enacted statute,~~

1 which becomes effective on or before January 1, 2012, deletes or  
2 extends the dates on which it becomes inoperative and is repealed.  
3 The repeal of this section renders the board subject to the review  
4 required by Division 1.2 (commencing with Section 473).

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

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

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

18 ~~(c) This section shall become inoperative on July 1, 2011, and,~~  
19 ~~as of January 1, 2012, is repealed, unless a later enacted statute,~~  
20 ~~which becomes effective on or before January 1, 2012, deletes or~~  
21 ~~extends the dates on which it becomes inoperative and is repealed.~~  
22 ~~The repeal of this section shall render the board subject to the~~  
23 ~~review required by Division 1.2 (commencing with Section 473).~~

24 *SEC. 70. Section 9882 of the Business and Professions Code*  
25 *is amended to read:*

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

37 ~~(b) In 2003 and every four years thereafter, the Joint Committee~~  
38 ~~on Boards, Commissions, and Consumer Protection shall hold a~~  
39 ~~public hearing to receive testimony from the Director of Consumer~~  
40 ~~Affairs and the bureau. In those hearings, the bureau shall have~~

1 ~~the burden of demonstrating a compelling public need for the~~  
2 ~~continued existence of the bureau and its regulatory program, and~~  
3 ~~that its function is the least restrictive regulation consistent with~~  
4 ~~the public health, safety, and welfare. The committee shall evaluate~~  
5 ~~and review the effectiveness and efficiency of the bureau based~~  
6 ~~on factors and minimum standards of performance that are specified~~  
7 ~~in Section 473.4. The committee shall report its findings and~~  
8 ~~recommendations as specified in Section 473.5. The bureau shall~~  
9 ~~prepare an analysis and submit a report to the committee as~~  
10 ~~specified in Section 473.2.~~

11 *SEC. 71. Section 18602 of the Business and Professions Code*  
12 *is amended to read:*

13 18602. (a) Except as provided in this section, there is in the  
14 Department of Consumer Affairs the State Athletic Commission,  
15 which consists of seven members. Five members shall be appointed  
16 by the Governor, one member shall be appointed by the Senate  
17 ~~Rules~~ *Rules Committee on Rules*, and one member shall be appointed  
18 by the Speaker of the Assembly.

19 The members of the commission appointed by the Governor are  
20 subject to confirmation by the Senate pursuant to Section 1322 of  
21 the Government Code.

22 No person who is currently licensed, or who was licensed within  
23 the last two years, under this chapter may be appointed or  
24 reappointed to, or serve on, the commission.

25 (b) In appointing commissioners under this section, the  
26 Governor, the Senate ~~Rules~~ *Rules Committee on Rules*, and the Speaker  
27 of the Assembly shall make every effort to ensure that at least four  
28 of the members of the commission shall have experience and  
29 demonstrate expertise in one of the following areas:

30 (1) A licensed physician or surgeon having expertise or  
31 specializing in neurology, neurosurgery, head trauma, or sports  
32 medicine. Sports medicine includes, but is not limited to,  
33 physiology, kinesiology, or other aspects of sports medicine.

34 (2) Financial management.

35 (3) Public safety.

36 (4) Past experience in the activity regulated by this chapter,  
37 either as a contestant, a referee or official, a promoter, or a venue  
38 operator.

39 (c) Each member of the commission shall be appointed for a  
40 term of four years. All terms shall end on January 1. Vacancies

1 occurring prior to the expiration of the term shall be filled by  
2 appointment for the unexpired term. No commission member may  
3 serve more than two consecutive terms.

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

6 (1) The Governor shall appoint two members for two years, two  
7 members for three years, and one member for four years.

8 (2) The Senate Committee on Rules shall appoint one member  
9 for four years.

10 (3) The Speaker of the Assembly shall appoint one member for  
11 four years.

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

15 ~~(e) This section shall become inoperative on July 1, 2009, and~~  
16 ~~as of January 1, 2010, is repealed, unless a later enacted statute,~~  
17 ~~which becomes operative on or before January 1, 2010, deletes or~~  
18 ~~extends the dates on which it becomes inoperative and is repealed.~~

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

21 *SEC. 72. Section 18602.5 of the Business and Professions Code*  
22 *is amended to read:*

23 18602.5. (a) The commission shall adopt and submit a strategic  
24 plan to the Governor and the Legislature on or before September  
25 30, 2008. The commission shall also submit a report to the  
26 Governor and the Legislature on the status of the adoption of the  
27 strategic plan ~~during the commission's next regularly scheduled~~  
28 ~~sunset review after January 1, 2007 on or before March 1, 2008.~~

29 The strategic plan shall include, but shall not be limited to, efforts  
30 to resolve prior State Athletic Commission deficiencies in the  
31 following areas:

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

34 (2) The effect and appropriateness of contracts made pursuant  
35 to Section 18828.

36 (3) Costs to train ringside physicians, referees, timekeepers, and  
37 judges.

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

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

3 (6) Outdated information technology.

4 (7) Unorganized and improper accounting.

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

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

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

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

17 *SEC. 73. Section 18824 of the Business and Professions Code*  
18 *is amended to read:*

19 18824. (a) Except as provided in Sections 18646 and 18832,  
20 every person who conducts a contest or wrestling exhibition shall,  
21 within five working days after the determination of every contest  
22 or wrestling exhibition for which admission is charged and  
23 received, furnish to the commission the following:

24 (1) A written report executed under penalty of perjury by one  
25 of the officers, showing the amount of the gross receipts, not to  
26 exceed two million dollars (\$2,000,000), and the gross price for  
27 the contest or wrestling exhibition charged directly or indirectly  
28 and no matter by whom received, for the sale, lease, or other  
29 exploitation of broadcasting and television rights of the contest or  
30 wrestling exhibition, and without any deductions, except for  
31 expenses incurred for one broadcast announcer, telephone line  
32 connection, and transmission mobile equipment facility, which  
33 may be deducted from the gross taxable base when those expenses  
34 are approved by the commission.

35 (2) A fee of 5 percent, exclusive of any federal taxes paid  
36 thereon, of the amount paid for admission to the contest or  
37 wrestling exhibition, except that for any one contest, the fee shall  
38 not exceed the amount of one hundred thousand dollars (\$100,000).  
39 The commission shall report to the ~~Joint Committee on Boards,~~  
40 ~~Commissions, and Consumer Protection~~ *Legislature and the Office*

1 *of the Consumer Advocate* on the fiscal impact of the one hundred  
2 thousand dollar (\$100,000) limit on fees collected by the  
3 commission for admissions revenues.

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

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

11 (ii) If the report required by subdivision (b) of Section 18618  
12 recommends that the Boxers' Pension Fund shall be expanded to  
13 include all athletes licensed under this chapter, the commission,  
14 by regulation, shall require, for all contests where the fee exceeds  
15 seventy thousand dollars (\$70,000), the amount in excess of  
16 seventy thousand dollars (\$70,000) shall be paid one-half to the  
17 commission and one-half to the Boxers' Pension Fund only if all  
18 athletes licensed under this chapter are made eligible for the  
19 Boxers' Pension Fund.

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

22 (D) No fee is due in the case of a person admitted free of charge.  
23 However, if the total number of persons admitted free of charge  
24 to a boxing, kickboxing, or martial arts contest, or wrestling  
25 exhibition exceeds 33 percent of the total number of spectators,  
26 then a fee of one dollar (\$1) per complimentary ticket or pass used  
27 to gain admission to the contest shall be paid to the commission  
28 for each complimentary ticket or pass that exceeds the numerical  
29 total of 33 percent of the total number of spectators.

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

32 (3) A fee of up to 5 percent, to be established by the commission  
33 through regulations to become operative on or before July 1, 2008,  
34 and updated periodically as needed, of the gross price, exclusive  
35 of any federal taxes paid thereon, for the sale, lease, or other  
36 exploitation of broadcasting or television rights thereof, except  
37 that in no case shall the fee be less than one thousand dollars  
38 (\$1,000) or more than twenty-five thousand dollars (\$25,000).

39 (b) As used in this section, "person" includes a promoter, club,  
40 individual, corporation, partnership, association, or other

1 organization, and “wrestling exhibition” means a performance of  
2 wrestling skills and techniques by two or more individuals, to  
3 which admission is charged or which is broadcast or televised, in  
4 which the participating individuals are not required to use their  
5 best efforts in order to win, and for which the winner may have  
6 been selected before the performance commences.

7 *SEC. 74. Section 18882 of the Business and Professions Code*  
8 *is amended to read:*

9 18882. (a) At the time of payment of the fee required by  
10 Section 18824, a promoter shall pay to the commission all amounts  
11 scheduled for contribution to the pension plan. If the commission,  
12 in its discretion, requires pursuant to Section 18881, that  
13 contributions to the pension plan be made by the boxer and his or  
14 her manager, those contributions shall be made at the time and in  
15 the manner prescribed by the commission.

16 (b) All contributions to finance the pension plan shall be  
17 deposited in the State Treasury and credited to the Boxers’ Pension  
18 Fund, which is hereby created. Notwithstanding the provisions of  
19 Section 13340 of the Government Code, all moneys in the Boxers’  
20 Pension Fund are hereby continuously appropriated to be used  
21 exclusively for the purposes and administration of the pension  
22 plan.

23 (c) The Boxers’ Pension Fund is a retirement fund, and no  
24 moneys within it shall be deposited or transferred to the General  
25 Fund.

26 (d) The commission has exclusive control of all funds in the  
27 Boxers’ Pension Fund. No transfer or disbursement in any amount  
28 from this fund shall be made except upon the authorization of the  
29 commission and for the purpose and administration of the pension  
30 plan.

31 (e) Except as otherwise provided in this subdivision, the  
32 commission or its designee shall invest the money contained in  
33 the Boxers’ Pension Fund according to the same standard of care  
34 as provided in Section 16040 of the Probate Code. The commission  
35 has exclusive control over the investment of all moneys in the  
36 Boxers’ Pension Fund. Except as otherwise prohibited or restricted  
37 by law, the commission may invest the moneys in the fund through  
38 the purchase, holding, or sale of any investment, financial  
39 instrument, or financial transaction that the commission in its  
40 informed opinion determines is prudent.

1 (f) The administrative costs associated with investing, managing,  
2 and distributing the Boxers' Pension Fund shall be limited to no  
3 more than 20 percent of the average annual contribution made to  
4 the fund in the previous two years, not including any investment  
5 income derived from the corpus of the fund. Diligence shall be  
6 exercised by administrators in order to lower the fund's expense  
7 ratio as far below 20 percent as feasible and appropriate. The  
8 commission shall report to the ~~Joint Committee on Boards,~~  
9 ~~Commissions, and Consumer Protection~~ *Legislature and the Office*  
10 *of the Consumer Advocate* on the impact of this provision ~~during~~  
11 ~~the next regularly scheduled sunset review after January 1, 2007~~  
12 ~~on or before March 1, 2008.~~

13 *SEC. 75. Section 22259 of the Business and Professions Code*  
14 *is repealed.*

15 ~~22259. This chapter shall be subject to the review required by~~  
16 ~~Division 1.2 (commencing with Section 473).~~

17 ~~This chapter shall become inoperative on July 1, 2008, and, as~~  
18 ~~of January 1, 2009, is repealed, unless a later enacted statute, which~~  
19 ~~becomes effective on or before January 1, 2009, deletes or extends~~  
20 ~~that date on which it becomes inoperative and is repealed.~~

21 *SEC. 76. Section 9148.8 of the Government Code is amended*  
22 *to read:*

23 9148.8. (a) ~~The Joint Committee on Boards, Commissions,~~  
24 ~~and Consumer Protection~~ *Office of the Consumer Advocate*, acting  
25 pursuant to a request from the chairperson of the appropriate policy  
26 committee, shall evaluate a plan prepared pursuant to Section  
27 9148.4 or 9148.6.

28 (b) Evaluations prepared by the ~~Joint Committee on Boards,~~  
29 ~~Commissions, and Consumer Protection~~ *Office of the Consumer*  
30 *Advocate* pursuant to this section shall be provided to the respective  
31 policy and fiscal committees of the Legislature pursuant to rules  
32 adopted by each committee for this purpose.

33 *SEC. 77. Section 9148.51 of the Government Code is amended*  
34 *to read:*

35 9148.51. (a) It is the intent of the Legislature that all existing  
36 and proposed state boards be subject to review ~~every four years~~  
37 ~~upon request by a Member of the Legislature or the chief of the~~  
38 ~~Office of the Consumer Advocate, as provided in Division 1.3~~  
39 ~~(commencing with Section 474.20) of the Business and Professions~~  
40 ~~Code, to evaluate and determine whether each has demonstrated~~

1 a public need for its continued existence in accordance with  
2 enumerated factors and standards as set forth in Chapter 2  
3 (commencing with Section 474) of Division 1.2 of the Business  
4 and Professions Code *the highest priority of each board is the*  
5 *protection of the public.*

6 (b) ~~In the event that~~ *If any state board becomes inoperative or*  
7 *is repealed in accordance with the act that added this section, any*  
8 *provision of existing law that provides for the appointment of*  
9 *board members and specifies the qualifications and tenure of board*  
10 *members shall not be implemented and shall have no force or effect*  
11 *while that state board is inoperative or repealed is determined to*  
12 *be deficient pursuant to Section 474.21 of the Business and*  
13 *Professions Code, the incumbent members of the board shall be*  
14 *removed from office without a hearing as described in Section*  
15 *474.21 of the Business and Professions Code, and a successor*  
16 *board shall be appointed pursuant to Section 101.1 of the Business*  
17 *and Professions Code.*

18 (e) ~~Any provision of law authorizing the appointment of an~~  
19 ~~executive officer by a state board subject to the review described~~  
20 ~~in Chapter 2 (commencing with Section 474) of Division 1.2 of~~  
21 ~~the Business and Professions Code, or prescribing his or her duties,~~  
22 ~~shall not be implemented and shall have no force or effect while~~  
23 ~~the applicable state board is inoperative or repealed.~~

24 (d) ~~It is the intent of the Legislature that subsequent legislation~~  
25 ~~to extend or repeal the inoperative date for any state board shall~~  
26 ~~be a separate bill for that purpose.~~

27 *SEC. 78. Section 9148.52 of the Government Code is repealed.*

28 ~~9148.52. (a) The Joint Committee on Boards, Commissions,~~  
29 ~~and Consumer Protection established pursuant to Section 473 of~~  
30 ~~the Business and Professions Code shall review all state boards,~~  
31 ~~as defined in Section 9148.2, other than a board subject to review~~  
32 ~~pursuant to Chapter 1 (commencing with Section 473) of Division~~  
33 ~~1.2 of the Business and Professions Code, every four years.~~

34 (b) ~~The committee shall evaluate and make determinations~~  
35 ~~pursuant to Chapter 2 (commencing with Section 474) of Division~~  
36 ~~1.2 of the Business and Professions Code.~~

37 ~~SECTION 1. Section 101.1 of the Business and Professions~~  
38 ~~Code is repealed.~~

39 ~~SEC. 2. Section 101.1 is added to the Business and Professions~~  
40 ~~Code, to read:~~

1 101.1. In the event that any board, as defined in Section 477,  
2 becomes inoperative or is repealed, a successor board shall be  
3 created in the Department of Consumer Affairs that shall succeed  
4 to and is vested with all the duties, powers, purposes,  
5 responsibilities, and jurisdiction not otherwise repealed or made  
6 inoperative of the board that it is succeeding. The successor board  
7 shall have the same number of members and composition as the  
8 board that it is succeeding, and those members shall be appointed  
9 by the same appointing authorities, for the same term, and with  
10 the same membership requirements as the members of that board.  
11 The successor board shall also have the same authority to appoint  
12 an executive officer as was possessed by the board that it is  
13 succeeding on the date upon which that board became inoperative.

14 SEC. 3. Section 4001 of the Business and Professions Code is  
15 amended to read:

16 4001. (a) There is in the Department of Consumer Affairs a  
17 California State Board of Pharmacy in which the administration  
18 and enforcement of this chapter is vested. The board consists of  
19 13 members.

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

27 (c) At least five of the seven pharmacist appointees to the board  
28 shall be pharmacists who are actively engaged in the practice of  
29 pharmacy. Additionally, the membership of the board shall include  
30 at least one pharmacist representative from each of the following  
31 practice settings: an acute care hospital, an independent community  
32 pharmacy, a chain community pharmacy, and a long-term health  
33 care or skilled nursing facility. The pharmacist appointees shall  
34 also include a pharmacist who is a member of a labor union that  
35 represents pharmacists. For the purposes of this subdivision, a  
36 “chain community pharmacy” means a chain of 75 or more stores  
37 in California under the same ownership, and an “independent  
38 community pharmacy” means a pharmacy owned by a person or  
39 entity who owns no more than four pharmacies in California.

1 ~~(d) Members of the board shall be appointed for a term of four~~  
2 ~~years. No person shall serve as a member of the board for more~~  
3 ~~than two consecutive terms. Each member shall hold office until~~  
4 ~~the appointment and qualification of his or her successor or until~~  
5 ~~one year shall have elapsed since the expiration of the term for~~  
6 ~~which the member was appointed, whichever first occurs.~~  
7 ~~Vacancies occurring shall be filled by appointment for the~~  
8 ~~unexpired term.~~

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

11 ~~(f) In accordance with Section 473.1, this section shall become~~  
12 ~~inoperative on July 1, 2010, and, as of January 1, 2011, is repealed,~~  
13 ~~unless a later enacted statute, that becomes effective on or before~~  
14 ~~January 1, 2011, deletes or extends the dates on which it becomes~~  
15 ~~inoperative and is repealed. The repeal of this section renders the~~  
16 ~~board subject to the review required by Division 1.2 (commencing~~  
17 ~~with Section 473).~~

18 ~~SEC. 4. Section 4003 of the Business and Professions Code is~~  
19 ~~amended to read:~~

20 ~~4003. (a) The board may appoint a person exempt from civil~~  
21 ~~service who shall be designated as an executive officer and who~~  
22 ~~shall exercise the powers and perform the duties delegated by the~~  
23 ~~board and vested in him or her by this chapter. The executive~~  
24 ~~officer may or may not be a member of the board as the board may~~  
25 ~~determine.~~

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

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

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

39 ~~(e) In accordance with Section 473.1, this section shall become~~  
40 ~~inoperative on July 1, 2010, and, as of January 1, 2011, is repealed,~~

- 1 ~~unless a later enacted statute, that becomes effective on or before~~
- 2 ~~January 1, 2011, deletes or extends the dates on which it becomes~~
- 3 ~~inoperative and is repealed.~~

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## **Overview and Accomplishments of the Joint Legislative Sunset Review Committee Process**

### **BACKGROUND: WHY THE SUNSET REVIEW LAW WAS PASSED IN 1994?**

The concept of sunset review law first began over twenty years ago. There are now about 35 states which have some sort of sunset review law on the books. Basically, the genesis behind all sunset laws is to place a termination date on a particular program or agency, and in the meantime, review it to determine if it is still operating in an effective and efficient manner, and whether it should continue.

When one talks about sunset or sunrise laws, they are usually referring to a review of regulatory licensing agencies. There are certainly other specific programs which may be subject to sunset, but the idea of subjecting an agency to a more formalized review process, before allowing it to continue, or be established in the first place, is unique to this type of law.

California was sort of a “Johnny-come-lately” to this process. There have been prior attempts to pass a sunset law, but in those instances the legislation would have sunset both the board and the licensing of the particular profession. The law which was passed in 1994, only sunsets the boards -- not the licensing of the occupation.

There are basically two reasons for this, the first is obvious – in most instances there is a continued need to license those professions currently regulated by boards under the Department of Consumer Affairs (DCA). To automatically terminate the licensing requirements would have provided no benefit to the review of these boards under the sunset law. The second reason, however, is more important. Throughout 1993 and 1994, both the Senate Business and Professions Committee and the Assembly Consumer Protection Committee began a review of some of the 32 regulatory boards under the Department. There was more concern with the board’s operation and activities (or lack thereof) than whether there was a need to continue the licensing of a particular profession. A number of problems with these boards were identified:

1. There were licensing laws and regulations which clearly benefited the profession but not the consumer, nor the professional candidate who wanted to enter into the profession. In effect, the licensed group, through the board and its licensing program, had set up artificial barriers of entry into the profession that enabled it to control the availability and cost of services and restrict competition. (Artificial barriers included: extensive education and experience requirements, providing examinations that only a few could pass, no reciprocity or comity agreements for those licensed in other states.)
2. Little or no disciplinary actions were being taken against licensees (license revocations or suspensions). Boards would argue, “that they were doing such a good job of weeding out the incompetent, that there was little need for enforcement.” But when the number of licensees and complaints were reviewed – there was a question as to why so few were actually disciplined.
3. Committees of the boards, made up of volunteer professionals, would make decisions usually accorded to staff or the executive officers concerning investigations or disciplinary actions to be taken against licensees.
4. Boards were not carrying out their statutory responsibility for particular programs, or taking an extremely long time to implement. (Example: Boards were not making use of authority to cite and fine licensees for violations of the law, which was granted to them in 1992, or even earlier for some boards.)
5. Boards were not operating their licensing, examination and enforcement programs in an effective and efficient manner. Were not responding to consumer complaints, or resolving complaints in a timely fashion. Program spending was not prioritized and some programs were too costly or completely unnecessary.
6. Boards lacked definitions of professional standards, or what amounted to incompetent, negligent or unprofessional conduct.

For all these reasons and more, both the Legislature and the Administration believed the more immediate task at hand was to review these consumer boards. If it was determined the board should sunset, then there would be adequate time to determine if the entire licensing program should be eliminated as well. (It should be noted that the Hoover Commission and the Legislative Analyst’s Office (LAO) both recommended establishing a sunset review process for all regulatory consumer boards.)

## **BRIEF DESCRIPTION OF THE CURRENT SUNSET REVIEW PROCESS**

The law, which went into effect on January 1, 1995, set in place a schedule for review of all of the 32 independent boards and programs under the Department of Consumer Affairs. It allowed for an initial review of all boards beginning in 1995 and ending in 1998.

A re-review of these boards is required after four or more years from the initial review, and is now scheduled beginning in 1999 and ending in 2004.

The sunset date for each board allows enough time for the board to be reviewed by the Joint Committee, and for legislation to be passed to extend the sunset date of the board and make appropriate changes.

The actual review process for the Joint Committee begins with sending boards a questionnaire and a request for information which covers every aspect of the board's operation for the past four years.

During this time, staff of the Joint Committee prepare an analysis and report on each board. (Staff also meets with boards to review documents and information provided, and seeks input from various consumer groups, and the Health and Budget committees of the Legislature.) The report provides a brief overview of the board's functions and programs, identifies issues or problem areas concerning each board, and includes preliminary recommendations for members of the Joint Committee to consider. This includes whether each board scheduled for review shall be terminated, continued, or reestablished, and whether its programs or functions should be restructured or revised.

The Joint Committee then meets in November to review the issues and preliminary recommendations. The boards are provided an opportunity to respond, along with the regulated industry, consumer groups and the public. The Department participates in these hearings as well.

If the board falls under the aegis of the Department, after the hearings, the Joint Committee provides the Department with copies of all testimony and analyses prepared by staff. The Department then has 60 days to provide its own recommendations to the Joint Committee. Once received, the Joint Committee then meets to review the recommendations of the Department and make final recommendations to the Legislature.

## **CONSIDERATIONS MADE DURING THE REVIEW AND EVALUATION OF BOARDS AND REGULATORY PROGRAMS**

The primary focus of the review is laid out in detail under the sunset law. Generally, the Joint Committee and its staff will evaluate the following:

1. Whether the board operates and enforces its regulatory responsibilities in the public interest and is carrying out its statutory duties mandated by the Legislature.

2. Whether regulation by the board of the particular occupation is necessary or whether conditions have arisen that would warrant deregulation of this licensing program.
3. Whether the membership of the board reflects both consumer interests and the licensing population, and whether the board encourages public participation in its decision making.
4. Whether the board's licensing, examination and enforcement programs are administered so as to protect the public, or are they, instead, self-serving to the profession, industry or individuals being regulated by the board.
5. Whether the board and its laws or regulations stimulate or restrict competition, and the extent of the economic impact the board's regulatory practices have on the state's business and the growth of this industry and profession in California.
6. Whether consumers are satisfied with the board's treatment and response to their individual complaints.
7. Whether the board's regulatory mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource and personnel matters.

## **RESULTS/ACCOMPLISHMENTS OF THE SUNSET REVIEW PROCESS**

The overall goal of the Joint Committee is to provide for improved and effective service to California consumers, and to the board's current and potential licensees. The process of sunset review has provided an opportunity for legislative staff and members to focus on the operations of these state regulatory programs and to consider changes which could improve their overall performance in protecting the consumer.

The specter of termination has served to galvanize most of these agencies and the professions they regulate, so as to make necessary statutory and administrative changes to increase the efficiency and effectiveness of these programs under review. If a regulatory program is considered as unnecessary, or performance of the board is exceptionally poor, a recommendation is made to either sunset the agency, or shorten its time frame for another review by the Joint Committee.

While numerous reforms have been enacted through the "Sunset" process, few boards have actually "Sunset". The only regulatory agencies eliminated over the past 20 years are the Board

of Fabric Care (licensing dry cleaners), the Auctioneer Commission, and the Board of Polygraph Examiners. In the meantime, the Legislature has continued to create new licensure categories or programs with little, if any, assessment of current programs.

During 1995/96, the first sunset review period, 11 boards and programs were scheduled for review, 7 were recommended to sunset on July 1, 1997. Four were recommended to continue, but with some major changes to their programs.

In 1996/97, an additional 12 boards were reviewed, 2 were recommended to sunset on July 1, 1998, 3 were recommended to receive a shorter period for their next sunset review until major licensing issues were resolved. For the 10 boards continued, the Joint Committee requested specific changes to improve their programs and make statutory changes where necessary.

In 1997/98, another 12 boards were reviewed. The Joint Committee supported the retention of all the regulatory programs, but also considered the merger of at least two boards: Hearing Aid Dispenser Examining Committee and the Speech-Language Pathology & Audiology Board. The Joint Committee also recommended elimination of several sub-licensing categories which were identified as unnecessary or outdated, and elimination or changes in licensing requirements for particular boards. There were also several recommended changes in board composition to increase overall public representation on several boards, and a close examination of budgetary concerns for at least two boards.

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**JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE**  
**CRITERIA FOR EVALUATING BOARDS**  
**AND THE NEED FOR LICENSURE\***

**PART 1.**

**EVALUATION OF BOARD'S OPERATIONS  
AND PROGRAMS**

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**A. General Responsibilities, Duties and Composition of  
the Board**

**ISSUE A1:** *Does the composition of the board adequately represent the public's perspective on issues concerning the regulation of...?*

**ISSUE A2:** *Are the duties and powers of the board defined and has the board exceeded their legal authority at any time?*

**ISSUE A3:** *Does the board have a policy or specific provisions relating to conflicts of interest and written standards of conduct for board members. Do these include grounds for removal of a board member?*

**ISSUE A4:** *Has the board adopted rules and standards of professional conduct for licensees? How are these rules communicated to licensees and enforced?*

*\* The criteria used to evaluate boards was developed by the JLSRC. The criteria used to evaluate the need for licensure is a compilation of questions contained in the "Sunrise Questionnaire" used by the Legislature and the Department of Consumer Affairs when reviewing a new occupational group to be regulated, and from a document published by The Council on Licensure, Enforcement and Regulation (CLEAR) titled, "Questions a Legislator Should Ask" when performing sunrise or sunset review.*

**ISSUE A5:** *Has the board specified its vision, mission and goals and objectives for its agency?*

**ISSUE A6:** *Has the board been involved in strategic planning, any type of basic self-assessment, quality management practices, or reorganization to improve the board's overall effectiveness and efficiency?*

**ISSUE A7:** *Has the board adopted adequate internal policies, procedures, and guidelines and is the board adhering to them?*

**ISSUE A8:** *Does the board make use of committees, and if so, do they have appropriate authority?*

**ISSUE A9:** *Do appropriate discussions and decisions occur at regular board meetings? Is public participation encouraged and how often and for what reasons are executive sessions held?*

**ISSUE A10:** *Has the board formulated and adopted policies and guidelines for "reasonable accommodations" for licensees and licensee establishments?*

**ISSUE A11:** *What outreach and consumer education is provided by the board to consumers?*

## **B. Funding and Organization of the Board and Staff**

**ISSUE B1:** *How much has the board spent on program components -- licensing, examination, enforcement, other -- over the past four years? Are their substantial resources being*

*allocated to other programs that provide no basis for discipline?*

**ISSUE B2:** *What are the boards' projected expenditures for the next two fiscal years for these program components and is a request for fee increases anticipated? Will the board accumulate excessive reserves? Is a fee reduction appropriate?*

**ISSUE B3:** *Are there any plans for adopting performance-based budgeting, or any other form of baseline performance measures covering the board's operations?*

**ISSUE B4:** *What is the organizational breakdown of the board and staff and does it provide the most efficient expenditure of funds?*

**ISSUE B5:** *Are the responsibilities of the executive officer commensurate with the position?*

## **C. Licensing and Application Process**

**ISSUE C1:** *Are the education, examination and experience requirements excessive when compared with other states and are they necessary to assure that practitioners are competent?*

**ISSUE C2:** *If qualifying experience is required, must it be gained under the supervision of a current licensee? If so, does the board provide oversight and is this requirement justified?*

**ISSUE C3:** *Does the information received on the application and the application review process assure that both in-state and out-of-state applicants are qualified to practice in California?*

**ISSUE C4:** *How often have licensees been denied licensure and for what reasons?*

**ISSUE C5:** *Does the renewal of license process provide assurance that practitioners have maintained their competence either through continuing education, periodic examination, peer review or some other procedures? Or is renewal based solely on the payment of a fee?*

**ISSUE C6:** *Does the board provide an opportunity for reinstatement of the licensee if the license has expired, or for an inactive or retired license status?*

**ISSUE C7:** *Are there any undue delays in approving the application, providing the exam, or in issuing the license?*

**ISSUE C8:** *Does the consumer have access to application and licensing information?*

#### **D. Continuing Education and Review of Professional Competence**

**ISSUE D1:** *Does the board have a continuing education requirement? If not, should one be mandated?*

**ISSUE D2:** *Is the continuing education requirement for renewal of the license necessary and is their evidence that*

*completion of continuing education will improve competence?*

**ISSUE D3:** *Does the board have a process for approval of continuing education courses that assures appropriate coursework is provided?*

**ISSUE D4:** *Is there any other type of review conducted by the board to assure competency of the licensee? (Such as peer review, quality reviews of licensees' work product or performance record, or re-testing.) Should the board use other methods to determine and improve professional competence?*

**ISSUE D5:** *What remedial action does the board take if the licensee is found to be lacking in professional competence?*

## **E. Examination Process**

**ISSUE E1:** *Does the examination test skills, knowledge and abilities related to the practice of the profession or is it being used as a way to bar entry into the profession? Is their legitimate justification for all examinations? Are the passage rates for particular examinations extremely low, or too high?*

**ISSUE E2:** *Is the licensing exam properly validated?*

**ISSUE E3:** *Is the exam given often enough and at convenient sites?*

**ISSUE E4:** *Is the grading of the exam unbiased?*

**ISSUE E5:** *If candidates fail the exam, do they have a fair opportunity to retake the examination?*

## **F. Complaint Process**

**ISSUE F1:** *How many complaints have been filed or dismissed over the past four years and how many have been handled formally or informally? Any backlog of complaints filed?*

**ISSUE F2:** *Are complaints handled in both an expeditious and appropriate manner, either through informal or formal processes? Any reduction in the time of handling complaints, or have time frames increased? Are complaints prioritized? How accurate are the initial and subsequent decisions on complaints?*

**ISSUE F3:** *Are there clear written policies and procedures for handling of “intake” calls (“initial inquiries”), and the handling of complaints? Is information provided in English and Spanish?*

**ISSUE F4:** *Who files the largest number of complaints (public, etc.)? Does there appear to be a disproportionate amount coming from licensees for a particular violation (such as unlicensed activity)? Is there a lack of self-reporting by licensees or appropriate organizations/agencies? Has the board done anything to encourage reporting of violations?*

**ISSUE F5:** *Is the complaint process easy for the consumer to use and understand? Are the complaints (forms and accompanying documentation) accurate? [Accurately describes nature of complaint, alleged violations, etc.]*

**ISSUE F6:** *Is the consumer kept apprised of the progress of a complaint once filed against the licensee?*

**ISSUE F7:** *What action does the board take if it receives ongoing complaints about particular abuses?*

**ISSUE F8:** *Is complaint information disclosed to the public?*

## **G. Enforcement Process**

### **Unlicensed Activity**

**ISSUE G1:** *Is the practice of the profession/trade clearly defined so as to determine what is licensed versus unlicensed activity?*

**ISSUE G2:** *Has the board implemented “cite and fine” authority under Sections 145 through 149 of the Business and Professions Code?*

**ISSUE G3:** *What action has the board taken against unlicensed activity over the past four years?*

## Investigations

**ISSUE G4:** *How many investigations have been commenced and completed for each year over the past four years, and how many are currently open/pending? What has been the time frame for these investigations? Has there been a decrease or increase in the time frames for the handling of investigations? Any backlog or reduction of outstanding investigation cases?*

**ISSUE G5:** *Does the board perform inspections and/or audits of licensees or their place of business, and if so, how often over the past four years?*

**ISSUE G6:** *Are investigations, inspections and/or audits handled in both an expeditious and appropriate manner by the board, either through use of their own investigative staff or use of the Department's Division of Investigation? How accurate are the initial and subsequent decisions on investigations?*

**ISSUE G7:** *How many investigations have been closed in lieu of disciplinary action over the past four years?*

## Disciplinary Action

**ISSUE G8:** *Has the board implemented "cite and fine" authority under Section 125.9 of the Business and Professions? If so, what action has the board taken over the past four years?*

**ISSUE G9:** *What other compliance actions have been used by the board in lieu of disciplinary action over the past four years (i.e., letters of warning, alternative dispute resolution, agreements (stipulations)? Are too many cases being handled informally, or through compliance actions where further disciplinary action should be taken?*

**ISSUE G10:** *Does the board make use of interim orders suspending or imposing restrictions on licensees, or other forms of injunctive relief to enjoin acts or practices of persons who are in violation of any of the provisions of the*

*licensing act? If so, how often have these forms of relief been sought and issued over the past four years?*

**ISSUE G11:** *Are grounds for suspension or revocation of a license clearly defined, and is probation granted under appropriate circumstances?*

**ISSUE G12:** *What disciplinary action has the board taken against licensees over the past four years for unprofessional conduct or other violations of the licensing act? Is the application of sanctions or discipline imposed consistent?*

**ISSUE G13:** *What subsequent actions has the board taken over the past four years after a decision is reached by the Administrative Law Judge? How often have decisions been overturned by the board and the sentence imposed reduced?*

**ISSUE G14:** *How often has the board delayed disciplinary action awaiting court action?*

**ISSUE G15:** *Has the board experienced any problems in receiving information about disciplinary violations from other licensees or appropriate reporting entities?*

**ISSUE G16:** *What disciplinary information is disclosed to the public?*

**ISSUE G17:** *Does the board provide for any form of restitution to the wronged consumer or to the public?*

**ISSUE G18:** *Has the board developed specific criteria to evaluate the rehabilitation of a licensee after their license has been revoked?*

### **Disciplinary Case Aging Data**

**ISSUE G19:** *Have there been any extreme delays in the handling of disciplinary cases over the past four years, which have been referred to the Attorney General's Office for*

*prosecution, and to the Office of Administrative Hearings for a final disposition?*

**ISSUE G20:** *Has the board been able to adequately track cases through the disciplinary process?*

### **Enforcement Costs**

**ISSUE G21:** *Has the board been spending too little or too much on enforcement over the past four years?*

**ISSUE G22:** *Has the board made the best use of its cost recovery authority?*

### **Other Litigation Costs**

**ISSUE G23:** *Has the board made appropriate expenditures for lawsuits filed on their behalf or against them?*

### **Diversion Program (If Applicable)**

**ISSUE G24:** *Does the diversion program of the board serve a useful purpose or is it merely being used as a way to avoid taking disciplinary action against licensees? What are the overall costs of the program as compared to its successes?*

### **Consumer Satisfaction Survey**

**ISSUE G25:** *What percentage of consumers are satisfied with the way in which the board handled their complaints?  
(Results of Consumer Survey Conducted by the Board)*

## **H. Efforts to Improve the Current Regulatory Process**

### **Operational Improvements**

**ISSUE H1:** *Is the board's regulatory mission impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personnel matters?*

**ISSUE H2:** *Are there administrative or regulatory changes that the board is considering to improve its operations and increase the program's ability to operate more in the public interest?*

### **Legislative Efforts**

**ISSUE H3:** *What recent legislative efforts has the board made, or considering, to improve any aspect of the current regulatory program?*

**ISSUE H4:** *Has the board recently adopted or is it proposing any new licensing or occupational category for licensure?*

## PART 2.

### ASSESSMENT OF NEED TO REGULATE

**ISSUE 1:** *Is there sufficient evidence that the unregulated practice of this occupation could endanger the health, safety or welfare of the public and cause significant public harm?*

(Are practitioners engaged in activities or practices that could cause public harm? How severe? How likely that will occur? To what extent do these incompetent activities or practices cause public harm? Does one area of practice have greater harm than another?)

**ISSUE 2:** *Do practitioners make judgments with potentially major financial, health, safety or other significant consequences for the consumers where public harm could result?*

**ISSUE 3:** *Do the judgments made by these practitioners require a high degree of skill or knowledge?*

**ISSUE 4:** *Are these judgments independent of oversight or supervision by another person or group?*

**ISSUE 5:** *Is there a generally accepted core amount of knowledge, skill and ability that the practitioner must have to meet minimum competency requirements, and are indicators of competent practice measurable by objective, written standards?*

**ISSUE 6:** *Are there other ways in which knowledge, skills and abilities necessary for this occupation are obtained, such as apprenticeships, internships, on-the-job training, individual study, etc.?*

**ISSUE 7:** *Is there significant public demand for some level of regulation of this occupation?*

(What groups, organizations of persons have demanded? Are there any that are opposed?)

**ISSUE 8:** *Are there federal mandates or other legal considerations that require the State to continue regulating this occupation?*

**ISSUE 9:** *Do components of the current regulatory program provide protections to the consumer and preclude consumer harm?*

(How does the current regulatory program protect the consumer? Is there a consensus on what activities constitute competent practice so as to preclude consumer harm?)

**ISSUE 10:** *Are there other ways in which the consumer could control their exposure to the risk of harm that could be caused by incompetent or negligent practice?*

(Are there other legal or administrative remedies available to redress consumer harm? Would monetary damages suffice? )

**ISSUE 11:** *Is it difficult for the consumer of the services to pick a qualified practitioner?*

( Use service repeatedly or infrequently? Is the consumer more sophisticated than the average public in requesting these services? Can the consumer readily evaluate the performance of the practitioner? Would marketplace factors suffice?)

**ISSUE 12:** *What degree of overlap is there with other public agencies which may regulate this occupation?*

(Other public agencies, state or local, which regulate some portion of services provided by occupation? What percentage of licensees may another agency (or board) license?)

**ISSUE 13:** *Are there other states in which this occupation is regulated?*

(What states currently regulate this occupation and which ones do not? Are there some that have deregulated this occupation? Is there any evidence of consumer harm in those states that do not regulate this occupation?)

**ISSUE 14:** *Is regulation of this occupation justified in light of the economic and social impact which the regulatory program has on the consumer?*

(What impact does the regulatory program have on costs to the consumer and possible state business and technological growth in California? Would there be substantial savings to the consumer if the current regulatory program were eliminated? What is the net benefit to the consumer in light of the costs to the consumer?)

**ISSUE 15:** *Is this occupation clearly distinguishable from other professions which are already regulated?*

(Is there a high degree of overlap with currently regulated occupations, or occupational functions are clearly different from those of currently regulated occupations? Do non-regulated groups perform critical functions that are similar to this occupation's practice?)

**ISSUE 16:** *Are there alternatives to the current regulatory program that would have less impact and still protect the consumer?*

(What other regulatory alternatives are available [transfer to DCA, public or private certification or registration, title act only] and which occupations are currently regulated in that fashion? What are the pros and cons of each?)

# **GOALS AND OBJECTIVES OF THE JOINT COMMITTEE ON BOARDS, COMMISSIONS & CONSUMER PROTECTION**

## **Primary Goal and Purpose of Joint Committee on Boards, Commissions & Consumer Protection:**

The primary goal of the Joint Committee is to systematically examine and evaluate all boards and commissions

## **Other Goals Include:**

- Eliminate unneeded, nonfunctional, or redundant boards or programs, or any unnecessary rules and regulations.
- Improve the quality of services provided to the consumer by examining the boards requirements for education, experience and testing of professionals, and other actions taken to assure competency.
- For licensing boards, eliminate overly restrictive eligibility standards, or standards of practice, which unduly limits competition between professionals, or places undue burdens on those who want to enter the occupation.
- Ensure that the public knows where they can go if injured or harmed by a licensed (or unlicensed) person, what actions they can take, and what the outcomes may be.
- Ensure that the public's complaints are handled in a courteous and expeditious manner.
- Ensure that boards are providing the appropriate remedy for the consumer: mediation, arbitration, restitution, disciplinary action, and/or criminal action against the licensee or person posing as a licensee.
- Ensure the public is informed about any complaints, disciplinary actions, judgments and criminal actions against a licensed professional.
- And in the future, with information technology advancements, provide better and more uniform information on licensed professionals as to education, experience, prior employment, or any other relevant information considered necessary for the consumer to make informed decisions about using the services of particular professionals.

## **In Pursuing These Goals, The Joint Committee Has As The Following Objectives To:**

- Determine if the membership of the board adequately represents both consumer interests and the licensing population, and whether the board encourages public participation in its decision making.
- Examine the boards organization and management and recommend elimination, consolidation and reorganization of programs where appropriate.
- Identify opportunities for improvements in the management of the boards daily operations, and for providing more efficient and effective consumer services.
- Identify consumer concerns and those of the regulated profession regarding the way the board operates.
- Establish appropriate performance measures for each board reviewed.
- Evaluate the boards programs and policies to identify overlapping functions and outmoded methodologies.
- Determine whether the board's licensing, examination and enforcement programs are administered so as to protect the public, or if they are instead self-serving to the profession, industry, or individuals being regulated by the board.
- Review the laws and regulations pertaining to the board and determine whether they restrict competition in the marketplace, the extent to which they are still necessary to regulate the profession, and whether the board is carrying out its legal mandate or has exceeded their authority.
- Examine the boards fiscal management practices and financial relationships with other agencies.
- Examine workforce issues.
- Identify advances in information technology applicable to the board's functions.



- The guidelines inform the licensee they may advertise their specific license type by using the complete title or the use of initials representing the license type. The policy states a licensee shall provide the complete title of the license, however the Board's regulations do not specifically address this area.

Board staff would support the licensee's choice to use either the complete title or the use of initials representing the license type.

- While the Board has provided a policy regarding the use of the terms, "Psychotherapy" and or "Psychotherapist" in order for the Board to enforce the policy it would require a regulation adoption.

### Discussion

Staff proposes that the Committee consider an open discussion to provide consistency of all available documentation and to initiate a rulemaking under the APA to adopt decided upon proposed language. Staff has drafted proposed language for the committee's review and consideration.

### Attachments

- A. Proposed Language
- B. Advertising Statute and Regulation Sections
- C. Advertising Psychotherapy/Psychotherapist, Policy # E-95-2
- D. Advertising Guidelines Form 1800 37M-550 (Rev. 10/06)
- E. Section 651 of the Business and Professions Code

**BOARD OF BEHAVIORAL SCIENCES  
Proposed Language**

**Title 16, California Code of Regulations  
Section 1811**

*Amend § 1811 as follows:*

1811. ~~Use of License Number in Directories and Advertisements~~ Advertising

(a) All persons or referral services regulated by the board who advertise their services shall include: ~~their license or registration number in the advertisement unless such advertisement contains the following specific information:~~

(1) The license or registration number.

~~(a) (2)~~ The full name of the licensee or registered referral service as filed with the board; and,

~~(b) (3) A- d~~ Designation of the type of license or registration held by either the complete title of the license or the use of initials representing the title as follows:

(1) (A) Licensed Marriage and Family Therapist or "MFT".

(2) (B) Licensed Educational Psychologist or "LEP".

(3) (C) Licensed Clinical Social Worker or "LCSW".

(4) (D) Registered MFT Referral Service.

~~(c) (b)~~ An unlicensed Marriage and Family Therapist Registered Intern who is under the supervision of a licensed professional may advertise if such advertisement if the advertisement clearly states that the Intern is unlicensed and working under the supervision of a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist or licensed physician and surgeon certified in psychiatry by the American Board of Psychiatry and Neurology. The advertisement shall also include the name and license type of the supervisor. complies with Section 4980.44 (a) (4) of the Code making disclosures required by that section.

~~(d) (c)~~ An unlicensed Associate Clinical Social Worker who is under the supervision of a licensed professional may advertise if such advertisement if the advertisement clearly states that the Associate Clinical Social Worker is unlicensed and working under the supervision of a licensed professional. The advertisement shall also include the name and license type of the supervisor. complies with Section 4996.18 (e) of the Code making disclosures required by that section.

(d) In addition to the other items listed in Section 651 of the Code, it is permissible for a person to include academic credentials in advertising as long as the degree is earned and the use of the academic credentials in the advertising does not imply the provision of services beyond the scope of the license.

(e) All persons regulated by the board shall not use the words “psychotherapy” or “psychotherapist” in advertising unless the licensee advertises the provision of any services authorized to be provided by his or her license within the licensee’s field of competence in a manner authorized under Section 651 of the Code.

Note: Authority Cited: Sections 137, 650.4, 651, 4980.60, 4990.14, and 4990.20 Business and Professions Code. Reference: Sections 137, 651, 4980.44 and 4996.18, Business and Professions Code.

## **MFTs**

### **Business and Professions Code §4980.03(e) Board; Intern; Trainee; Advertise**

"Advertise," as used in this chapter, includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on, or in, any building or structure, or in any newspaper or magazine or in any directory, or any printed matter whatsoever, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting. Signs within church buildings or notices in church bulletins mailed to a congregation shall not be construed as advertising within the meaning of this chapter.

### **Business and Professions Code §4982(p) Unprofessional Conduct**

Advertising in a manner that is false, misleading, or deceptive.

## **LCSWs**

### **Business and Professions Code §4992.3(p) Unprofessional Conduct; Effect on Licensee or Registrant**

Advertising in a manner, which is false, misleading, or deceptive.

### **Title 16, California Code of Regulations §1881(k) Unprofessional Conduct**

Advertises in a manner which is false or misleading

## **LEPs**

### **Business and Professions Code §4989.54(e) Unprofessional Conduct**

Advertising in a manner that is false, misleading, or deceptive.

### **Title 16, California Code of Regulations §1858(m) Unprofessional Conduct**

Advertises in a manner, which is false or misleading.

## **REFERRAL SERVICES**

### **Title 16, California Code of Regulations §1889.3(a) Advertising and referral Guidelines**

An MFT referral service shall advertise and make referrals in accordance with Sections 650.4 and 651 of the Code and Section 1811 of these regulations.

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**BOARD OF BEHAVIORAL SCIENCES**

400 R STREET, SUITE 3150, SACRAMENTO, CA 95814  
 TELEPHONE: (916) 445-4933 TDD: (916) 322-1700  
 WEBSITE ADDRESS: <http://www.bbs.ca.gov>



SUBJECT: Advertising Psychotherapy/Psychotherapist	POLICY # E-95-2	DATE ADOPTED: 11/17/95
	SUPERSEDES:N/A	PAGE: 1 OF 1
DISTRIBUTE TO: Board Members/ All Staff	APPROVED BY:	<b>BOARD OF BEHAVIORAL SCIENCES</b>

**Policy:**

Use of the words “psychotherapy” or “psychotherapist” in advertising by a licensee is not, in itself\*, a violation of law, of regulation, nor is it, in itself, false or misleading advertising, **provided that all of the following conditions are met:**

1. the advertising indicates the full name of the licensee and the complete title of the license (licensed marriage, family and child counselor, licensed clinical social worker, -- in those words).
2. the person advertising is competent, by reason of his/her education, training, and/or experience, to perform the professional services advertised or to act in a manner or professional capacity advertised.

\* The words “in itself” are of significance. Whether or not a particular advertisement is found to be false or misleading or in violation of any law or regulation depends upon an analysis of **all** of the facts and circumstances relating to the advertisement in question. Certainly, the usage of any and all words will be amongst the factors considered.

**Background:**

This policy is adopted by the California Board of Behavioral Science Examiners (BBSE) because of its firm belief that arbitrary limits or restrictions on the use of the specific words in advertising do not serve the interests of the consumers of mental health services, but tend to promote unhealthy “turf” battles between competing professions. BBSE’s commitment is to the provision of factual information which will assist the consumer in making informed decisions with respect to the utilization of professional services.

This policy should not be construed, nor is it intended, to encourage any specific manner or form of advertising or the usage of any words. It is not intended to serve as a substitute for independent legal advice on the issue of permissible, i.e., lawful, advertising. Its purpose is simply and solely to clarify the position of the BBSE with respect to the use of words “psychotherapist” or “psychotherapy” in advertisements by its licensees.

**Implementation:** Immediate

**Attachment:** None

California law prohibits any advertising, which is false, misleading or deceptive. In addition, any professional advertising must clearly indicate your licensure status as a Marriage and Family Therapist, Licensed Clinical Social Worker, or Licensed Educational Psychologist.

Licensure status must be shown either by including the complete name of the license OR by including the initials of the appropriate license AND the license number. Any UNLICENSED person practicing under supervision MUST also include the name and correct licensure status of the supervisor.

It is also permissible to include academic credentials (i.e., M.A., M.S.W., Ph.D.) so long as the degree is earned and relevant to the license. The use of the academic qualification must not imply the provision of services that would be beyond the scope of the license.

Marriage and Family Therapists, Licensed Clinical Social Workers and Registrants/Associates **MAY NOT ADVERTISE AS PSYCHOLOGISTS OR AS PROVIDERS OF PSYCHOLOGICAL SERVICES UNLESS THEY ALSO HOLD A PSYCHOLOGY LICENSE.** Licensed Educational Psychologists **MAY ADVERTISE AS PSYCHOLOGISTS PROVIDED THEY CLEARLY SHOW THEY ARE EDUCATIONAL PSYCHOLOGISTS.**

### **Policy**

Use of the words "psychotherapy" or "psychotherapist" in advertising by a licensee is not, in itself\*, a violation of law, of regulation, nor is it, in itself\*, false or misleading advertising, **provided that all of the following conditions are met:**

1. the advertising indicates the full name of the licensee and the complete title of the license (licensed marriage and family therapist, licensed clinical social worker -- in those words).
2. the person advertising is competent, by reason of his/her education, training, and/or experience, to perform the professional services advertised or to act in a manner or professional capacity advertised.

\* The words "in itself" are of significance. Whether or not a particular advertisement is found to be false or misleading or in violation of any law or regulation depends upon an analysis of **all** of the facts and circumstances relating to the advertisement in question. Certainly, the usage of any and all words will be amongst the factors considered.

Please see other side for samples of advertising formats that have been reviewed and found to be acceptable.

**SAMPLE FORMATS OF ADVERTISING FOR BBS REGISTRANTS AND ASSOCIATES**

Mary Doe  
*Registered Intern*  
IMF 11111

Supervised by Jane Smith,  
Marriage and Family Therapist  
License No. MFC 12345

Mary Doe  
*Associate Clinical Social Worker*  
ASW 11111

Supervised by Jane Smith,  
Marriage and Family Therapist  
License No. MFC 12345

Mary Doe, M.A., Ph.D.  
*Registered MFT Intern*

Supervised by John Jay, LCSW, LCS 54321

John Smith, M.S.W., Ph.D.  
*Associate Clinical Social Worker*

Supervised by John Jay, LCSW, LCS 54321

**SAMPLE FORMATS OF ADVERTISING FOR BBS LICENSEES**

Jane Doe, Ph.D.  
*Licensed Marriage and Family Therapist*

John Jay  
*Licensed Clinical Social Worker*

Jane Doe, MFT  
MFC 22222

John Jay, M.S.W., LCSW  
LCS 54321

Mary Doe, M.A., Ed.D.  
License No. LEP 2525

Mary Doe  
*Licensed Educational Psychologist*

**Business and Professions Code §651 Public Communication Containing False, Fraudulent, Misleading, or Deceptive Statement, Claim or Image: Advertisements; Penalty**

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

- (1) Contains a misrepresentation of fact.
- (2) Is likely to mislead or deceive because of a failure to disclose material facts.
- (3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

- (4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.
- (5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.
- (6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.
- (7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(i) For the purposes of this section, a dentist licensed under Chapter 4 (commencing with Section 1600) may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the practitioner has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation, is eligible for examination by a national specialty board recognized by

the American Dental Association, or is a diplomate of a national specialty board recognized by the American Dental Association.

(ii) A dentist licensed under Chapter 4 (commencing with Section 1600) shall not represent to the public or advertise accreditation either in a specialty area of practice or by a board not meeting the requirements of clause (i) unless the dentist has attained membership in or otherwise been credentialed by an accrediting organization that is recognized by the board as a bona fide organization for that area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under clause (i), the organization shall condition membership or credentialing of its members upon all of the following:

(I) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a university based dental school and is beyond the dental degree at a graduate or postgraduate level.

(II) Prior didactic training and clinical experience in the specific area of dentistry that is greater than that of other dentists.

(III) Successful completion of oral and written examinations based on psychometric principles.

(iii) Notwithstanding the requirements of clauses (i) and (ii), a dentist who lacks membership in or certification, diplomate status, other similar credentials, or completed advanced training approved as bona fide either by an American Dental Association recognized accrediting organization or by the board, may announce a practice emphasis in any other area of dental practice only if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement that he or she is a general dentist.

(iv) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.

(B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless

the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

(C) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant's education, training, and experience. For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

- (6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.
- (7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.
- (8) A statement of publications authored by the practitioner.
- (9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.
- (10) A statement of his or her affiliations with hospitals or clinics.
- (11) A statement of the charges or fees for services or commodities offered by the practitioner.
- (12) A statement that the practitioner regularly accepts installment payments of fees.
- (13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.
- (14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.
- (15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.
- (16) A statement, or statements, providing public health information encouraging preventative or corrective care.
- (17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of

health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

(k) A physician and surgeon or doctor of podiatric medicine licensed pursuant to Chapter 5 (commencing with Section 2000) by the Medical Board of California who knowingly and intentionally violates this section may be cited and assessed an administrative fine not to exceed ten thousand dollars (\$10,000) per event. Section 125.9 shall govern the issuance of this citation and fine except that the fine limitations prescribed in paragraph (3) of subdivision (b) of Section 125.9 shall not apply to a fine under this subdivision.

1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834  
(916) 574-7830, (916) 574-8625 Fax  
www.bbs.ca.gov

**To:** Policy and Advocacy Committee                      **Date:** September 25, 2007  
**From:** Christy Berger  
Legislation Analyst    **Telephone:** (916) 574-7847  
**Subject:** **Legislation Update**

**BOARD-SPONSORED LEGISLATION  
BOTH ARE AWAITING SIGNATURE BY THE GOVERNOR\***

**AB 234 (Eng) *Marriage and Family Therapy***

This proposal would make a number of clarifying changes and updates to the Marriage and Family Therapy Licensing laws. The bill also addresses changes made by SB 1475 (Statutes of 2006) pertaining to Licensed Educational Psychologists, as follows:

- Change the CE requirement from 150 hours every five years to 36 hours every two years.
- Permit supervised experience in a school psychology program to have been gained at any time prior to application for licensure.
- Restore the Board's ability to deem different degree titles as equivalent.

**SB 1048 (Senate Business, Professions and Economic Development Committee): *BBS Omnibus Bill***

This legislation would do all of the following:

- *Unprofessional Conduct*  
Add the following to the Board's 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*  
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*  
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*

\* The Governor has until October 14, 2007 to sign 2007 legislation.

Decrease the amount of time a license can remain delinquent from five years to three years.

- *Fictitious Business Names*  
Addresses the use of fictitious business names for Licensed Clinical Social Workers (LCSWs) in private practice, in parallel with current MFT statute.
- *Fee Statutes*  
Make a number of technical changes related to fee and renewal statutes for consistency and clarity.
- *Exempt Practice Settings*  
Align exempt settings specified in LCSW statute with those specified in MFT statute.
- *Portability of MFT Licensure*  
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*  
Eliminate an outdated provision which permits applicants for MFT Intern registration to qualify under an alternative method.

Staff had intended for the following proposals to be a part of this omnibus legislation:

- *Award licensees with 6 hours of continuing education credit for attending one full day Board meeting.* There was some objection to this proposal, so this idea will need to be revisited by the Board.
- *Permit MFT Interns to count client-centered advocacy experience toward licensure.* This proposal was approved at the Board's May 2007 meeting. It was not included in SB 1048 as additional amendments were not being accepted. This proposal will be attempted at a later date.

#### BILLS THAT THE BOARD IS MONITORING

#### BILLS THAT HAVE PASSED

##### **AB 1525 (Cook) Bureau for Private, Postsecondary and Vocational Education (BPPVE)**

This legislation temporarily extends school approvals formerly issued by the Bureau for Private Postsecondary and Vocational Education (BPPVE) until July 1, 2008 for schools that had a valid approval to operate as of June 30, 2007. This legislation is intended to allow these schools to retain their approvals for the purpose of interpreting laws that require graduation from a BPPVE-approved school as a qualification for registration or licensure. This bill became effective immediately on July 12, 2007 and applies retroactively to July 1, 2007.

#### BILLS AWAITING SIGNATURE BY THE GOVERNOR\*

##### **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 recommended a position of "support" to the full Board, who, at its meeting on May 31, 2007, adopted the Committee's recommendation.

##### **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

\* The Governor has until October 14, 2007 to sign 2007 legislation.

illness” as mental disorders defined in the DSM-IV or subsequent editions, and includes substance abuse. The Board’s Policy and Advocacy Committee recommended a position of “support” to the full Board, who, at its meeting on May 31, 2007, adopted the Committee’s recommendation.

**AB 1025 (Bass) *Denial of Licensure***

This proposal would prohibit a person from being denied licensure or from having his or her license suspended or revoked based solely on a criminal conviction that has been expunged. The Board’s Policy and Advocacy Committee recommended a position of “oppose” to the full Board, who, at its meeting on May 31, 2007, adopted the Committee’s recommendation.

**AB 1178 (Hernandez) *Medical Information: Disclosures***

This proposal would permit 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. This proposal would conform the Civil Code to existing provisions established in case law and in the Evidence Code. At its meeting on May 31, 2007, the Board adopted a position of “support” on this legislation.

**SB 45 (Perata) *Bureau for Private, Postsecondary and Vocational Education (BPPVE)***

This bill extends limited state oversight of private postsecondary schools from February 1, 2008 to July 1, 2008. It also extends, for 11 months, institutional approvals necessary to preserve student ability to sit for licensing exams. The Board has not taken a position on this bill, as the BPPVE content was not amended into the bill until August 29, 2007.

**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 recommended a position of “support” to the full Board, who, at its meeting on May 31, 2007, adopted the Committee’s recommendation.

**TWO-YEAR BILLS**

**AB 64 (Berg) *Uniform Emergency Volunteer Health Practitioners Act***

This proposal would set up a registry of volunteer health practitioners licensed in this and other states. It would permit these volunteers to provide health services through a host entity during a declared emergency. The Policy and Advocacy Committee recommended a position of “support if amended” to the Board who, at its meeting on August 30, 2007, adopted the Committee’s recommendation.

**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 recommended a position of “support” to the full Board, who, at its meeting on May 31, 2007, adopted the Committee’s recommendation. The Board recently received a letter from Assembly Member Hayashi regarding this legislation, which is attached. This letter states that the Governor has agreed to create the OSP by Executive Order.

**AB 1367 (DeSaulnier) *Licensed Alcohol and Drug Abuse Counselors***

This proposal would establish title protection and licensure for Licensed Alcohol and Drug Abuse Counselors, with the program to be administered by the Board of Behavioral Sciences. The Board did not take a position on this 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. At its meeting on May 31, 2007, the Board adopted a position of “support” for this bill.

**SB 823 (Perata) *Bureau for Private, Postsecondary and Vocational Education (BPPVE)***

This bill would create a new regulatory structure and a new bureau within the Department of Consumer Affairs to regulate private postsecondary education. The Board has not taken a position on this legislation.

Attachment

Letter from Assembly Member Hayashi Regarding AB 509

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STATE CAPITOL  
P.O. BOX 942849  
SACRAMENTO, CA 94249-0018  
(916) 319-2018  
FAX (916) 319-2118

DISTRICT OFFICE  
22320 FOOTHILL BLVD.  
SUITE 540  
HAYWARD, CA 94541  
(510) 583-8818  
FAX (510) 583-8800

# Assembly California Legislature



2007 SEP 20 AM 12:38

**MARY HAYASHI**  
ASSEMBLYMEMBER, EIGHTEENTH DISTRICT  
ASSISTANT MAJORITY WHIP

**COMMITTEES:**  
BUDGET  
SUBCOMMITTEE No. 4 ON  
STATE ADMINISTRATION  
BUSINESS AND PROFESSIONS  
HEALTH  
REVENUE AND TAXATION  
**SELECT COMMITTEES:**  
CHAIR, COMMUNITY COLLEGES

September 19, 2007

Mr. Paul Riches  
Executive Officer  
Board of Behavioral Sciences  
1625 North Market Blvd., Suite S-200  
Sacramento, CA 95834

Dear Mr. Riches,

I want to take this time to personally thank you for your time, effort and support for my bill AB 509 (Office of Suicide Prevention). I am pleased to report to you that in the last several weeks, while we were moving AB 509 through the Legislature, we successfully negotiated an agreement with the Administration to create the Office of Suicide Prevention.

The Governor has agreed to create the Office by Executive Order. In order to build on this cooperation and acknowledge the Governor's willingness to support our effort I will hold AB 509 in the Legislature for possible use next year. I am attaching a copy of the agreement signed by Director Stephen Mayberg.

I would also like to invite you to an event the Governor's office is planning to announce the signing of the Executive Order creating the new Office of Suicide Prevention. As soon as I get the details of this event I will forward the information to you and hopefully you will be able to attend and share in this significant achievement.

Again my best wishes and sincerest thanks for all your work.

Sincerely,

A handwritten signature in cursive script that reads "Mary Hayashi".

**MARY HAYASHI**  
Assemblymember, 18<sup>th</sup> District



C A L I F O R N I A   D E P A R T M E N T   O F

# Mental Health

1600 9th Street, Sacramento, CA 95814  
(916) 654-2309

September 7, 2007

The Honorable Mary Hayashi  
California State Assembly  
State Capitol, Room 2188  
Sacramento, CA 95814

Dear Assembly Member Hayashi:

It is with pleasure that I inform you of the decision to establish, in the Department of Mental Health (DMH), the Office of Suicide Prevention. You can be proud that your bill, AB 509, was the catalyst for this significant milestone.

The formation of the Office, which shall be accomplished administratively, is also a recommendation in the draft California Strategic Plan on Suicide Prevention developed by DMH in coordination and collaboration with the California Health and Human Services Agency. This process was directed by the Governor last year and led to the formation of the Suicide Prevention Plan Advisory Committee. The fact that \$14 million a year for the next four years has been allocated from the Mental Health Services Act and Prevention and Early Intervention funds for the State Administered Suicide Prevention Project will ensure better statewide coordination by a formal office within the department.

We continue to have a meaningful and productive working relationship with your office in this cooperative endeavor. I would like to personally commend you for your dedication to this cause. Your leadership, through AB 509, has helped shape the new Office of Suicide Prevention. We are in the process of planning an appropriate event for announcing the Office of Suicide Prevention and look forward to including you in the event. If you should have any questions, please contact me at (916) 654-2309.

Sincerely,

A handwritten signature in black ink that reads "Stephen W. Mayberg". The signature is written in a cursive, flowing style.

STEPHEN W. MAYBERG, PH.D.  
Director



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 departmental approval. The regulatory package was approved by the Department. A second 15-day notice will be distributed on September 4, 2007 due to minor form modifications. The rulemaking file was forwarded to the Board for its review at the August 30, 2007 meeting. The rulemaking file was approved by the Board at its August 30, 2007 meeting. **The rulemaking file was forwarded to the Department for final approval on September 20, 2007.**

*Title 16, CCR, Sections 1887, 1887.3, and 1887.7, 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 (OAL Notice Number Z-06-0919-05). 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. The regulatory package was approved by the Department. The rulemaking file was forwarded to the Board for its review at the August 30, 2007 meeting. The rulemaking file was approved by the Board at its August 30, 2007 meeting. **The rulemaking file was forwarded to the Department for final approval on September 20, 2007.**

*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 (OAL Notice Number Z-06-0919-05). 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. The regulatory package was approved by the Department. The rulemaking file was forwarded to the Board for its review at the August 30, 2007 meeting. The rulemaking file was approved by the Board at its August 30, 2007 meeting. **The rulemaking file was forwarded to the Department for final approval on September 20, 2007.**

*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 before 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 (OAL Notice Number Z-06-0919-05). 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. The regulatory package was approved by the Department. The rulemaking file was forwarded to the Board for its review at the August 30, 2007 meeting. The rulemaking file was approved by the Board at its August 30, 2007 meeting. **The rulemaking file was forwarded to the Department for final approval on September 20, 2007.**

*Title 16, CCR, Sections 1887.2(a) and 1887.3(a) Continuing Education Self-Study*

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 (OAL Notice Number Z-06-1218-01), which initiated the 45-day public comment period. A regulatory hearing was held at the Board's February 15, 2007 meeting. The Board gave this proposal its final approval at its meeting on May 31, 2007. The completed regulatory package was submitted to the Legal Office in April for final departmental approval. The regulatory package was approved by the Department. The rulemaking file was forwarded to the Board for its review at the August 30, 2007 meeting. The rulemaking file was approved by the Board at its August 30, 2007 meeting. **The rulemaking file was forwarded to the Department for final approval on September 20, 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. The Board approved the originally proposed text at its meeting on May 31, 2007. **The proposal was returned to the Committee for further work.**

*Title 16, CCR Sections 1887, 1887.2, 1887.3, and 1887.7, Minor Clean-Up of Continuing Education Regulations*

This proposal would make minor clean-up amendments to continuing education regulations. At its meeting on April 11, 2007, the Board's Consumer Protection Committee recommended that the Board approve the proposed language. The Board approved the originally proposed text at its meeting on May 31, 2007. Although the proposal was approved on May 31, 2007, staff could not begin the rulemaking process, as the Board's motion did not contain all the needed components. **The Board approved staff to begin the initial rulemaking process at its August 30, 2007 meeting.**

*Title 16, CCR Section 1870, Two-Year Practice Requirement for Supervisors of Associate Clinical Social Workers*

This proposal would require supervisors of associate clinical social workers to be licensed for at least two years prior to commencing any supervision, and would make some technical changes for clarity. At its meeting on April 11, 2007, the Board's Consumer Protection Committee recommended that the Board approve the proposed language. The Board approved the originally proposed text at its meeting on May 31, 2007. Although the proposal was approved on May 31, 2007, staff could not begin the rulemaking process, as the Board's motion did not contain all the needed components. **The Board approved staff to begin the initial rulemaking process at its August 30, 2007 meeting.**

*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.**