

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 707

VERSION: INTRODUCED FEBRUARY 27, 2009

AUTHOR: DESAULNIER

**SPONSOR: DEPARTMENT OF ALCOHOL AND
DRUG PROGRAMS**

RECOMMENDED POSITION: NONE

**SUBJECT: ALCOHOLS AND OTHER DRUG
COUNSELOR LICENSING**

Existing Law:

- 1) Current Department of Alcohol and Drug Programs (Department) regulations specify the following:
 - By April 1, 2010, at least 30% of counselors in licensed facilities shall be in compliance with certification requirements and all other counseling staff shall be registered with a certifying organization (9 CCR §13010).
 - Any individual who was certified to provide counseling services in an alcohol or other drug program by a certifying organization as of April 1, 2005, is deemed to be certified pursuant to the requirements of the regulation. (9 CCR §13020)
 - Until April 1, 2007, any certifying organization may issue a certificate to any individual employed as an alcohol or other drug program counselor as of April 1, 2005 if the individual is certified and has achieved a score of at least 70% on an approved oral/written examination and has either been providing counseling services for 40 hours a week for a minimum of five years between April 1, 1995 and April 1, 2005 or possesses an Associates of Arts, Bachelor of Arts, or Master of Arts degree in the study of chemical dependency.(9 CCR §13025)
 - By October 1, 2005 or within six months of the date of hire, whichever is later, all non-licensed or non-certified individuals providing counseling services in an alcohol or other drug program must be registered to obtain certification as an alcohol or other drug program counselor. (9 CCR §13035 (f))
 - Registrants shall complete certification as an alcohol or other drug program counselor within five years from the date of registration. (9 CCR §13035 (f)(1))
 - In order for a certifying organization to issue alcohol or other drug program counselor certification, their certification requirements must meet Department minimum standards. These standards include: completing a minimum of 155 hours of formal classroom alcohol or other drug program counselor education, as defined, completing a minimum of 160 documented hours of supervised alcohol or other drug program counseling, completing 2,080 or more documented hours of work experience, and obtaining a score of at least 70% on an exam approved

by the certifying organization. (9 CCR §13040)

- 2) Defines a psychotherapist as a physician and surgeon specializing in psychiatry or practicing psychotherapy, a psychologist, a clinical social worker, a Marriage and Family Therapist (MFT), a psychological assistant, a MFT registered intern or trainee, or an associate clinical social worker.
- 3) Establishes the following general requirements for licensure of psychotherapists:
 - A graduate degree from an accredited school in a related clinical field;
 - Extensive hours of supervised experience gained over years;
 - Registration with a regulatory Board while gaining the supervised experience; and,
 - Standard and Clinical Vignette licensing examinations.

This Bill:

- 1) Creates the Alcohol and Other Drug Counselor Licensing and Certification Act (Act). Health and Safety Code Section 11975.10)
- 2) Provides that the Department of Alcohol and Drug Programs (Department) shall administer and enforce the Act (HSC §11975.20(a)) and adopt all rules and regulations necessary to do so. (HSC §11975.25(a))
- 3) Defines a “Certified Alcohol and Other Drug Counselor” (CAODC) as a person certified by the Department to practice alcohol and drug counseling under clinical supervision in a program licensed or certified by the Department. (HSC §11975.15(a))
- 4) Defines Certified Alcohol and Other Drug Counselor – Advanced” (CAODC-A) as a person certified by the Department to practice alcohol and drug counseling in a program licensed or certified by the Department. (HSC §11975.15(b))
- 5) Defines Certified Alcohol and Other Drug Counselor - Clinical Supervisor” (CAODC-CS) as a person certified by the Department to practice alcohol and drug counseling in a program licensed or certified by the Department and who may provide clinical supervision to registrants, CAODCs, and CAODC-As. (HSC §11975.15(c))
- 6) Defines Licensed Alcohol and Other Drug Counselor” (LAODC) as a person certified by the Department to practice alcohol and drug counseling who may provide clinical supervision to any other person licensed, certified or registered pursuant to this bill and who may maintain an independent counseling practice. (HSC §11975.15(d))
- 7) Defines “Registrant” as an uncertified or unlicensed person who is in the course of completing the requirements for certification or licensure pursuant to the Act, and is registered with the Department and who has completed no less than 12 semester units or 18 quarter units of education required by the Act. (HSC §11975.15(g))
- 8) Requires the Department to develop standards for certification and licensure of alcohol and other drug counselors, including those persons presently certified pursuant to current Department regulations. (HSC §11975.25(b))

- 9) Requires the Department to issue licenses, certifications and registrations beginning January 1, 2011. (HSC §11975.25(c))
- 10) Requires the Department to provisionally certify as a CAODC each person who the Department determines was certified as a counselor on January 1, 2010, in accordance with regulations of the Department in effect immediately prior to January 1, 2010. (HSC §11975.30(a))
- 11) States that provision licenses issued pursuant to this bill shall remain in effect for at least two years, but no more than four years, as determined by the Department. (HSC §11975.30(b))
- 12) Requires the Department, beginning January 1, 2011, to issue CAODC certificates to persons that meet all of the following requirements: (HSC §11975.35(a))
 - a. Meet one of the following education requirements:
 - i. Possesses a high school diploma or GED and completes 350 hours of education in all of the following areas, provided by an accredited institution of higher learning or other provider approved by the Department:
 1. Addiction Counseling Competencies, as defined; (HSC §11975.45(a)(1))
 2. Competencies for Substance Abuse Treatment Clinical Supervision, as defined; and, (HSC §11975.45(a)(2))
 3. Other material, sources, and requirements in addition to, or in lieu of, the above. (HSC §11975.45(a)(3))
 - ii. Posses an earned Associates of Arts, Associates of Science in alcohol and drug counseling, or other major or equivalent degree. (HSC §11975.35(a)(1)(B))
 - b. Passes any or all of the following tests as determined by the Department: (HSC §11975.35(a)(2))
 - i. The written examination offered by the International Certification & Reciprocity Consortium/Alcohol & Other Drug Abuse, Inc.;
 - ii. An alternate or additional test developed by the Department; and/or,
 - iii. An alternate or additional test the Department may approve.
 - c. Completes 250 hours of supervised experience. (HSC §11975.35(a)(3))
 - d. Completes 2,080 hours of work experience. (HSC §11975.35(a)(4))
 - e. Submits to a state and federal level criminal offender record information search. (HSC §11975.35(a)(5))
- 13) Requires the Department, beginning January 1, 2011, to issue CAODC-A certificates to persons that meet all of the following requirements: (HSC §11975.35(b))

- a. Meets either of the following: (HSC §11975.35(b)(1))
 - i. Possesses an earned Bachelor of Arts, Bachelor of Science in alcohol and drug counseling or other major or an equivalent degree; or,
 - ii. Completes 10,000 hours of work experience, in a qualifying work setting, within a period not exceeding 10 years prior to the date the application for certification was filed and posses a high school diploma.
 - b. Passes any or all of the following tests as determined by the Department: (HSC §11975.35(b)(2))
 - i. The written examination offered by the International Certification & Reciprocity Consortium/Alcohol & Other Drug Abuse, Inc.;
 - ii. An alternate or additional test developed by the Department; and/or,
 - iii. An alternate or additional test the Department may approve.
 - c. Completes 400 hours of supervised experience. (HSC §11975.35(b)(2)(A))
 - d. Completes 2,080 hours of work experience. (HSC §11975.35(b)(2))
 - e. Submits to a state and federal level criminal offender record information search. (HSC §11975.35(b)(2))
- 14) Requires the Department, beginning January 1, 2011, to issue CAODC-CS certificates to persons that meet all of the following requirements: (HSC §11975.35(c))
- a. Meets either both the following: (HSC §11975.35(c)(1))
 - i. Possesses an earned Bachelor of Arts, Bachelor of Science in alcohol and drug counseling or other major or an equivalent degree; and
 - ii. Completes a 40 hour course of education specifically directed to the competencies of clinical supervision.
 - b. Passes any or all of the following tests as determined by the Department: (HSC §11975.35(c)(2))
 - i. The written examination offered by the International Certification & Reciprocity Consortium/Alcohol & Other Drug Abuse, Inc.;
 - ii. An alternate or additional test developed by the Department; and/or,
 - iii. An alternate or additional test the Department may approve.
 - c. Completes 550 hours of supervised experience. (HSC §11975.35(c)(2)(A))
 - d. Completes 2,080 hours of work experience. (HSC §11975.35(c)(2))
 - e. Submits to a state and federal level criminal offender record information search. (HSC §11975.35(c)(2))

- 15) Requires the Department, beginning January 1, 2011, to issue a LAODC license to persons that meet all of the following requirements: (HSC §11975.40)
- a. Possesses an earned Master of Arts, Master of Science in alcohol and drug counseling, psychology, or social work, or other major or an equivalent degree recognized by the Department by regulation. (HSC §11975.40(a))
 - b. Completes a 40 hour course of education specifically directed to the competencies of clinical supervision. (HSC §11975.40(b))
 - c. Passes any or all of the following tests as determined by the Department: (HSC §11975.40(c))
 - i. The written examination offered by the International Certification & Reciprocity Consortium/Alcohol & Other Drug Abuse, Inc.;
 - ii. An alternate or additional test developed by the Department; and/or,
 - iii. An alternate or additional test the Department may approve.
 - d. Completes 2,000 hours of supervised experience. (HSC §11975.40(d))
 - e. Completes 6,000 hours of work experience. (HSC §11975.40(e))
 - f. Submits to a state and federal level criminal offender record information search. (HSC §11975.40(c)(2))
- 16) Sets forth standards for supervised experience gained to meet the certification and licensure requirements of this bill. (HSC §11975.55)
- 17) Requires experience to be gained only in settings that lawfully and regularly provide alcohol and other drug counseling and that provide oversight to ensure the supervisee's work meets specified requirements and is within the scope of practice for the profession. (HSC §11975.55(d))
- 18) Provides that licensure and certification is not needed to practice of alcohol and drug counseling in the following settings, by the following individuals: (HSC §11975.70)
- a. An employee or volunteer of the State of California.
 - b. In Custody services of the California Department of Corrections.
 - c. An employee or volunteer of an agency of the United States Government.
 - d. Peer or self-help group if the person is an unpaid member who performs peer group or self-help activities and does not use the title stating or implying that he or she is certified or licensed by the State.
 - e. A cleric or other religious leader who provides advice and guidance to members of his or her congregation free of charge.
 - f. A director of a live-in alternative to incarceration rehabilitation program.

- 19) States that nothing in this Act shall constrict, limit or withdraw the Marriage and Family Therapist Act or the Clinical Social Worker Practice Act. (HSC §11975.65)
- 20) Defines the practice of alcohol and drug counseling to mean the performance of any of the following services for the purpose of treating alcohol and drug abuse: (HSC §11975.75)
 - a. Initial intake
 - b. Assessment
 - c. Orientation
 - d. Treatment planning
 - e. Alcohol and drug counseling, including individual, group and significant others
 - f. Case management
 - g. Crisis intervention
 - h. Client education
 - i. Referral
 - j. Reports and record keeping
 - k. Consultation with other professionals with regard to client treatment or services.
- 21) Provides that the Department may deny, revoke, suspend, or impose conditions upon a license, certification, or registration for unprofessional conduct and outlines activities that is deemed unprofessional conduct. (HSC §11975.95)
- 22) Allows an applicant who fails the written or oral examination to retake the examination within one year from the notification date, without further application. Thereafter the applicant shall not be eligible for further examination until he or she files a new application. (HSC §11976.40)
- 23) Requires all applicants for licensure, certification or registration pursuant to this Act, and all employees and volunteers of programs, facilities, or services licensed or certified by the Department, to consent to a state and federal level criminal offender record information search. (HSC §11976.45(a)and (b))
- 24) Sets forth provisions for renewing an unexpired certificate or license, including the completion of 40 hours of continuing education, as approved by the Board. (HSC §11976.50 (b)((3))
- 25) Prohibits an expired license from being restored, reinstated, or reissued if it has not been renewed within three years after its expiration. Allows an individual to apply for and obtain a new license or certificate if specified requirements are met. (HSC §11976.65)
- 26) Allows the Department to issue a license or certification to any person who at the time of application has held a valid active alcohol and drug counseling license or certification by a corresponding authority in any state and passes the licensing examination required by this Act. (HSC §11976.97)

- 27) Establishes the Alcohol and Other Drug Counselor License Fund in the State Treasury for the collection of all fees and fines collected by the Department pursuant to this Act. (HSC §11977.10)
- 28) Sets specified fees for licensure, certification, or registration and allows the Department to establish different fees by regulation. (HSC §11977.15)

Comment:

- 1) **Author's Intent.** According to the Author's office, there is no specific statutory authority for the Department to certify or license an alcohol or other drug counselor or provide oversight and monitoring of California's counselor certification process. The Department has inadequate authority to develop regulations to ensure consumer protections for persons receiving counseling services or impose sanctions for unethical behavior of a counselor in the Department's current alcohol and other drug treatment delivery system.
- 2) **Previous Legislation and Board Action.** Previous legislation has been considered by this Committee and the Board related to licensure of alcohol and other drug counselors. Most recently the Committee reviewed AB 239 (DeSaulnier) of 2008 that created a licensing scheme for individuals providing alcohol and other drug counseling outside of state licensed facilities. The Committee did not make a recommendation to the Board on a formal position, and at its May 30, 2008 meeting the Board voted unanimously to take no action on the legislation. AB 239 was ultimately vetoed by the Governor. In his veto message the Governor directed the Department of Alcohol and Drug Programs to work with the Department of Consumer Affairs (DCA) and stakeholders to craft uniform standards for all alcohol and drug counselors to ensure all individuals seeking treatment are offered the same quality of care across all sectors.
- 3) **How SB 707 Differs from Previous Legislation.** The bill before the Committee today, SB 707, provides for the certification of three levels of practitioner that practices within a program licensed or certified by the Department. This bill additionally provides for a Masters – level licensed practitioner that may practice drug and alcohol counseling outside of a facility or program and who may maintain an independent counseling practice. The most recent alcohol and drug counselor licensure bill attempted to regulate practitioners practicing in the private sector only.
- 4) **Scope of Practice of Certificate and License Holder.** Individuals certified or licensed to practice alcohol and other drug counseling pursuant to the provisions of this bill may perform any of the following services for the purpose of treating alcohol and drug abuse:
- Initial intake
 - Assessment
 - Orientation
 - Treatment planning
 - Alcohol and drug counseling, including individual, group, and significant others
 - Case management
 - Crisis intervention
 - Client education
 - Referral
 - Recordkeeping and reports
 - Consultation with other professionals with regard to client treatment or services.

A licensed individual may perform the above services independently and outside of a public facility. These services are not defined in this bill and therefore it is unclear if licensure is

needed to perform some for these services, such as initial intake, orientation and recordkeeping) and if the prescribed education and experience is sufficient to perform other services, such as assessment, treatment planning and crisis intervention. Because this bill does not provide parameters for the above listed services, it is uncertain the actual activities that may be performed within the scope of an alcohol and other drug counselor.

Additionally, although the bill states that the provisions contained therein shall not limit the scope of LCSWs and MFTs, many of these activities can be perceived to be within the scope of those licensees, bringing into question if the education and training for an LAODC is sufficient for the work performed. Additionally, it is unclear what activities can be performed as “alcohol and drug counseling, including individual, group and significant others” and how this may differ from activities within the scope of practice of Board licensees.

- 5) **Single Diagnosis Practitioner.** This bill proposes to regulate the practice of drug and alcohol counseling in both licensed facilities and private practice by creating standards for certification and licensure as an alcohol and other drug counselor. As discussed in the previous section, alcohol and drug counseling as defined in this bill, is a number of specified activities performed for the purpose of treating alcohol or other drug problems only. This creates a license to treat only one diagnosis. An LAODC would therefore have to be able to differentiate between an issue that is solely attributed to alcohol and drug abuse problems and symptoms and issues that may be attributable to a diagnosis outside the scope of practice of the LAODC. And, with such a narrow focus of a LAODC (performance of service to treat alcohol and drug problems only), it is unclear how effective this licensee would be in treating the individual. One underlying issue may in determining where alcohol and other drug problems end and another distinct diagnosis begins.
- 6) **Provisional Certification.** This bill allows the Department to provisionally certify as a CAODC any person that was certified by the Department as a counselor on January 1, 2010 in accordance with standards in place at that time. This provisional certification may remain in effect for two to four years, as determined by the Department.

Additionally, this bill allows the Department to specify in regulation the conditions under which persons registered to become certified pursuant to the Department’s regulation in effect prior to January 1, 2010 may be eligible to become registered or certified.

Because only 30% of individuals practicing in public facilities must to be certified by 2010, it is unclear how many individuals currently providing alcohol and other drug services in public facility will meet the requirements for provisional certification under this bill.

There is no provisional license or grandparenting provision in this bill for LAODC’s.

- 7) **Reciprocity Provision.** This bill allows the Department to issue a license or certificate to any person that at the time of application has held an active alcohol and other drug counseling license or certification issued in any other state, provided that person passes the licensing examination and background check required by this bill. However, this section of the bill does not require that the license or certificate have substantially equivalent requirements to those contained in this bill. The requirements for licensure and certification vary widely from state to state, and without assurances that a licensee would have to meet the education and experience requirements of California to practice in this state, the standard of care from California licensed and certified counselors may be compromised.

8) Support and Opposition.

Support: Department of Alcohol and Drug Programs (sponsor)

Opposition: None on File

9) History

Mar. 23	Withdrawn from committee. Re-referred to Com. on HEALTH.
Mar. 19	To Coms. on B., P. & E.D. and HEALTH.
Mar. 2	Read first time.
Feb. 28	From print. May be acted upon on or after March 30.
Feb. 27	Introduced. To Com. on RLS. for assignment. To print.

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Introduced by Senator DeSaulnier
(Coauthor: Assembly Member Beall)

February 27, 2009

An act to add Part 4 (commencing with Section 11975.10) to Division 10.5 of, and to repeal Section 11975.30 of, the Health and Safety Code, to amend Section 11165.7 of the Penal Code, and to amend Section 15630 of the Welfare and Institutions Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 707, as introduced, DeSaulnier. Alcohol and other drug counselor licensing and certification.

Existing law provides for the licensure, registration, and certification of the various healing arts professionals, including, but not limited to, setting forth the scope of practice, establishing the regulatory boards, department, or bureaus, and setting forth the powers and duties of these entities.

This bill would establish similar licensure, registration, and certification provisions relating to alcohol and other drug counselors to be administered by the State Department of Alcohol and Drug Programs. The bill would make a violation of these provisions a crime. The bill would authorize the department to assess related fees, and would require deposit of the fees into the Alcohol and Other Drug Counselor License Fund, which the bill would establish for expenditure for the purposes of this bill, upon appropriation by the Legislature.

By establishing a new crime, this bill would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Part 4 (commencing with Section 11975.10) is
2 added to Division 10.5 of the Health and Safety Code, to read:

3
4 PART 4. ALCOHOL AND OTHER DRUG COUNSELOR
5 LICENSING AND CERTIFICATION

6
7 CHAPTER 1. GENERAL PROVISIONS

8
9 11975.10. (a) This part shall be known, and may be cited, as
10 the Alcohol and Other Drug Counselor Licensing and Certification
11 Act.

12 (b) This part shall be liberally construed to achieve its objectives.

13 11975.15. For purposes of this part, the following terms have
14 the following meanings:

15 (a) “Certified Alcohol and Other Drug Counselor” or “CAODC”
16 means a person certified by the department pursuant to subdivision
17 (a) of Section 11975.35 to practice alcohol and drug counseling
18 under clinical supervision in a program licensed or certified by the
19 department under this division.

20 (b) “Certified Alcohol and Other Drug Counselor-Advanced”
21 or “CAODC-A” means a person certified by the department
22 pursuant to subdivision (b) of Section 11975.35 to practice alcohol
23 and drug counseling in a program licensed or certified by the
24 department under this division.

25 (c) “Certified Alcohol and Other Drug Counselor-Clinical
26 Supervisor” or “CAODC-CS” means a person certified by the
27 department pursuant to subdivision (c) of Section 11975.35 to
28 practice alcohol and drug counseling in a program licensed or
29 certified by the department under this division, and who may
30 provide clinical supervision to registrants, CAODCs, and
31 CAODC-As.

32 (d) “Licensed Alcohol and Other Drug Counselor” or “LAODC”
33 means a person licensed by the department pursuant to Section

1 11975.40 to practice alcohol and other drug counseling, and who
2 may provide clinical supervision to any other person licensed,
3 certified, or registered under this part and who may maintain an
4 independent counseling practice.

5 (e) “Clinical supervision” means the ongoing process in which
6 the supervisor participates with one or more supervisees to ensure
7 quality care, as described in “Competencies for Substance Abuse
8 Treatment Clinical Supervisors,” Technical Assistance Publication
9 Series No. 21-A, 2007, published by the United States Department
10 of Health and Human Services, Substance Abuse and Mental
11 Health Services Administration Center for Substance Abuse
12 Treatment, or other sources as the department may specify by
13 regulation.

14 (f) “Advertise” includes, but is not limited to, the issuance of
15 any card, sign, or device to any person, or the causing, permitting,
16 or allowing of any sign or marking on or in any building or
17 structure, or in any newspaper or magazine or in any directory, or
18 any printed matter, with or without any limiting qualification. It
19 also includes business solicitations communicated by radio or
20 television broadcasting, the Internet, or any other electronic
21 medium.

22 (g) “Registrant” means an uncertified or unlicensed person who
23 is in the course of completing the requirements for certification or
24 licensure under this part and is registered with the department who
25 has completed no less than 12 semester units or 18 quarter units
26 of the education required under this part.

27 (h) “Supervision” means responsibility for, and control of, the
28 quality of alcohol and other drug counseling services being
29 provided. Consultation or peer discussion shall not be considered
30 to be supervision. “Supervisee” means a registrant or certified or
31 licensed counselor under this part, as the case may be, who is
32 seeking to meet the supervised experience requirements of this
33 part.

34
35 CHAPTER 2. ADMINISTRATION
36

37 11975.20. (a) The department shall administer and enforce
38 this part.

1 (b) The department may enter into an agreement with any
2 governmental agency or other entity, public or private, to
3 administer any portion of this part.

4 11975.25. In order to carry out the provisions of this part, the
5 department shall do, but shall not be limited to, all of the following:

6 (a) Adopt rules and regulations as necessary to administer and
7 enforce this part. The adoption, amendment, and repeal of those
8 rules and regulations shall be made in accordance with the
9 rulemaking provisions of the Administrative Procedure Act
10 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
11 Division 3 of Title 2 of the Government Code).

12 (b) Develop standards for certification and licensure of alcohol
13 and other drug counselors, including those persons presently
14 certified pursuant to regulations adopted by the department so that
15 they have an opportunity for certification or licensure under this
16 part with appropriate credit for the education, training, and
17 experience obtained prior to the department’s implementation of
18 this part. The department shall establish standards for multiple
19 levels of alcohol and other drug counselors and may establish
20 subspecialties with distinct requirements.

21 (c) Issue licenses, certificates, and registrations beginning
22 January 1, 2011, to those who meet the qualifications of this part
23 and any regulations promulgated pursuant to this part.

24 (d) Take disciplinary action against counselors where
25 appropriate, including reprimand or probation, suspension, or
26 revocation of the license, certificate, or registration, issuance of
27 administrative citations, or imposition of administrative fines not
28 to exceed five thousand dollars (\$5,000), or any combination of
29 these.

30 (e) Establish continuing education requirements.

31 (f) Establish procedures for the receipt, investigation, and
32 resolution of complaints.

33 (g) Establish criteria to determine whether the curriculum of an
34 educational institution satisfies the requirements imposed by this
35 part.

36 (h) Establish parameters of unprofessional conduct that are
37 consistent with generally accepted ethics codes for the profession.

38 (i) Establish reinstatement procedures for an expired or revoked
39 certificate or license.

1 (j) Establish registration and supervision requirements for
2 registrants, including those persons presently registered pursuant
3 to regulations adopted by the department, so that they have an
4 opportunity for registration, certification, and licensure under this
5 part with appropriate credit for the education, training, and
6 experience obtained prior to the department's implementation of
7 this part.

8 (k) Develop or adopt one or more examinations for
9 administering to prospective licensees. The test may be
10 administered by the department or by any public or private entity
11 selected by the department.

12 (l) Maintain a database of certified and licensed counselors and
13 registrants, including the individual's status, any public record of
14 discipline, and other information as the department may require.

15
16 CHAPTER 3. LICENSING AND CERTIFICATION

17
18 11975.30. (a) The department shall provisionally certify as a
19 Certified Alcohol and Other Drug Counselor each person who the
20 department determines was certified as a counselor on January 1,
21 2010, in accordance with regulations of the department in effect
22 immediately prior to January 1, 2010.

23 (b) Provisional certification shall be in force for at least two,
24 but not more than four, years, as the department may determine
25 by regulation.

26 (c) The department may withdraw or condition a provisional
27 certification for any reason for which it could deny, suspend,
28 revoke, or condition a registration, certificate, or license under this
29 part.

30 (d) The department may specify, by regulations, conditions
31 under which eligible persons may be provisionally certified at the
32 level of Certified Alcohol and Other Drug Counselor-Advanced
33 or Certified Alcohol and Other Drug Counselor-Clinical
34 Supervisor.

35 (e) The department shall specify by regulation the conditions
36 under which persons registered to become certified, pursuant to
37 the department's regulations in effect immediately prior to January
38 1, 2010, may be eligible to be registered or certified under this part
39 and receive appropriate credit for education, supervised experience,
40 and work experience previously completed.

1 (f) This section shall remain in effect only until January 1, 2017,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2017, deletes or extends that date.

4 11975.35. (a) Commencing January 1, 2011, the department
5 shall issue CAODC certificates to a person who meets all of the
6 following requirements:

7 (1) Meets one or more of the following:

8 (A) Completes 350 hours of education as specified in Section
9 11975.45 and possesses a high school diploma or GED.

10 (B) Possesses an earned Associate of Arts, Associate of Science
11 in alcohol and drug counseling, or other major or an equivalent
12 degree recognized by the department by regulation, from an
13 institution of higher learning accredited by the Western Association
14 of Schools and Colleges or an equivalent regional accrediting
15 agency approved by the United States Department of Education.

16 (2) Passes the test specified in Section 11975.50.

17 (3) Completes 250 hours of supervised experience as specified
18 in Section 11975.55.

19 (4) Completes 2,080 hours of work experience as specified in
20 Section 11975.60.

21 (5) Submits to a state and federal level criminal offender record
22 information search and passes both background checks as specified
23 in Section 11976.10.

24 (6) Pays the required fees as set by the department.

25 (7) Completes the application for a certificate and satisfies all
26 other requirements of this part for certification as a CAODC.

27 (b) Commencing January 1, 2011, the department shall issue
28 CAODC-A certificates to a person who meets all of the following
29 requirements:

30 (1) Meets either of the following:

31 (A) Possesses an earned Bachelor of Arts, Bachelor of Science
32 in alcohol and drug counseling, or other major or an equivalent
33 degree recognized by the department by regulation, from an
34 institution of higher learning accredited by the Western Association
35 of Schools and Colleges or an equivalent regional accrediting
36 agency approved by the United States Department of Education.

37 (B) Completes 10,000 hours of work experience as specified in
38 Section 11975.60, within a period not exceeding 10 years prior to
39 the date the application for certification was filed and possesses a
40 high school diploma or GED.

1 (2) Meets all of the requirements of paragraphs (2) to (6),
2 inclusive, of subdivision (a), plus both of the following additional
3 requirements:

4 (A) Completes an additional 150 hours of supervised experience
5 as specified in Section 11975.55.

6 (B) Completes the application for a certificate and satisfies all
7 other requirements of this part for certification as a CAODC-A.

8 (c) Commencing January 1, 2011, the department shall issue
9 CAODC-CS certificates to a person who meets all of the following
10 requirements:

11 (1) Meets both of the following:

12 (A) Possesses an earned Bachelor of Arts, Bachelor of Science
13 in alcohol and drug counseling, or other major or an equivalent
14 degree recognized by the department by regulation, from an
15 institution of higher learning accredited by the Western Association
16 of Schools and Colleges or an equivalent regional accrediting
17 agency approved by the United States Department of Education.

18 (B) Completes a course of education as specified in paragraph
19 (3) of subdivision (b) of Section 11976.50 specifically directed to
20 the competencies of clinical supervision.

21 (2) Meets all of the requirements of subparagraph (A) of
22 paragraph (2) of subdivision (b), plus both of the following
23 additional requirements:

24 (A) Completes an additional 150 hours of supervised experience
25 as specified in Section 11975.55.

26 (B) Completes the application for a certificate and satisfies all
27 other requirements of this part for certification as a CAODC-CS,
28 including any additional requirements specified by the department
29 related to clinical supervision.

30 11975.40. Commencing January 1, 2011, the department shall
31 issue an LAODC license to a person who meets all of the following
32 requirements:

33 (a) Possesses an earned Master of Arts, Master of Science in
34 alcohol and drug counseling, psychology, or social work, or other
35 major or an equivalent degree recognized by the department by
36 regulation, from an institution of higher learning accredited by the
37 Western Association of Schools and Colleges or an equivalent
38 regional accrediting agency approved by the United States
39 Department of Education.

- 1 (b) Completes a course of education as specified in paragraph
2 (3) of subdivision (b) of Section 11976.50 specifically directed to
3 the competencies of clinical supervision.
- 4 (c) Passes the test specified in Section 11975.50.
- 5 (d) Completes 2,000 hours of supervised experience as specified
6 in Section 11975.55.
- 7 (e) Completes 6,000 hours of work experience as specified in
8 Section 11975.60.
- 9 (f) Submits to a state and federal level criminal offender record
10 information search and passes both background checks as specified
11 in Section 11976.45.
- 12 (g) Pays the required fees as set by the department.
- 13 (h) Completes the application for a license and satisfies all other
14 requirements of this part for licensure as an LAODC.
15 11975.45. The education required in Sections 11975.35 and
16 11975.40 shall meet both of the following requirements:
- 17 (a) The curriculum shall include all of the following:
- 18 (1) “Addiction Counseling Competencies,” Technical Assistance
19 Publication Series No. 21, 2006, published by the United States
20 Department of Health and Human Services, Substance Abuse and
21 Mental Health Services Administration, Center for Substance
22 Abuse Treatment.
- 23 (2) “Competencies for Substance Abuse Treatment Clinical
24 Supervisors,” Technical Assistance Publication Series No. 21-A,
25 2007, published by the United States Department of Health and
26 Human Services, Substance Abuse and Mental Health Services
27 Administration, Center for Substance Abuse Treatment.
- 28 (3) Other materials, sources, and requirements in addition to,
29 or in lieu of, the above, including, but not limited to, more specific
30 subject matter requirements, as the department may specify by
31 regulation.
- 32 (b) Education provided by either of the following:
- 33 (1) An institution of higher learning accredited by the Western
34 Association of Schools and Colleges or an equivalent regional
35 accrediting agency approved by the United States Department of
36 Education.
- 37 (2) Other providers as approved by the department, whether
38 individually, through accreditation by another entity recognized
39 by the department, or otherwise as the department may specify by
40 regulation.

1 11975.50. The test required for certification under Sections
2 11975.35 and 11975.40 shall be any, or all, of the following as
3 determined by the department:

4 (a) The written examination offered by the International
5 Certification & Reciprocity Consortium/Alcohol & Other Drug
6 Abuse, Inc., an organization comprised of domestic and
7 international organizations involved in credentialing and licensing
8 alcohol and other drug counselors.

9 (b) Alternate or additional test or tests as the department may
10 develop.

11 (c) Alternate or additional test or tests as the department may
12 recognize and approve, whether individually, through accreditation
13 by another entity recognized by the department, or otherwise as
14 the department may specify by regulation.

15 11975.55. The supervised experience required for certification
16 under Sections 11975.35 and 11975.40 shall meet all of the
17 following criteria:

18 (a) The required supervised experience may be gained under
19 the clinical supervision of a CAODC-CS, an LAODC, or another
20 licensed mental health professional specified by the department
21 by regulation. This experience shall consist of all of the following:

22 (1) A minimum of 70 percent of the required hours shall be
23 face-to-face individual or group counseling provided to clients in
24 the context of alcohol and other drug services, unless the
25 department modifies this requirement by regulation.

26 (2) A maximum of 30 percent of the required hours may be in
27 case management, client-centered advocacy, consultation,
28 evaluation, and research, unless the department modifies this
29 requirement by regulation.

30 (3) The required hours of supervised experience shall be
31 obtained over a period of not less than one year and shall have
32 been gained within the six years immediately preceding the date
33 on which the application for certification or licensure was filed.

34 (4) Experience shall not be credited for more than 40 hours in
35 any week.

36 (b) (1) Prior to the commencement of supervision, a supervisor
37 shall comply with all requirements for supervisors as established
38 by the department by regulation.

39 (2) A supervisee shall receive an average of at least one hour
40 of direct supervisor contact for every week in which more than 10

1 hours of face-to-face counseling is performed in each setting where
2 experience is gained. No more than five hours of supervision,
3 whether individual or group, shall be credited during any single
4 week. For purposes of this section, “one hour of direct supervisor
5 contact” means one hour of face-to-face contact on an individual
6 basis or two hours of face-to-face contact in a group, of not more
7 than eight persons receiving supervision, addressing the substance
8 of the supervisory plan required in subdivision (c).

9 (c) The supervisor and the supervisee shall develop a supervisory
10 plan that describes the goals and objectives of supervision. These
11 goals shall include the ongoing assessment of strengths and
12 limitations and the assurance of practice in accordance with the
13 laws and regulations. The supervisee shall submit to the department
14 the initial original supervisory plan upon application for licensure
15 or certification.

16 (d) Experience shall be gained only in a setting that meets both
17 of the following:

18 (1) Lawfully and regularly provides alcohol and other drug
19 counseling.

20 (2) Provides oversight to ensure that the supervisee’s work at
21 the setting meets the experience and supervision requirements set
22 forth in this part and is within the scope of practice for the
23 profession as defined in Section 11975.75.

24 (e) Experience shall not be gained until the applicant has been
25 registered as a supervisee.

26 (f) A supervisee may be either a paid employee or a volunteer.
27 Employers are encouraged to provide fair remuneration to
28 supervisees.

29 (g) A supervisee shall not receive any remuneration from
30 patients or clients, and shall be paid only by his or her employer.
31 A supervisee shall not have any proprietary interest in the
32 employer’s business.

33 (h) A supervisee may receive supervision from a person not
34 employed by the supervisee’s employer if that person has signed
35 a written agreement with the employer to take supervisory
36 responsibility for the supervisee’s alcohol and other drug
37 counseling.

38 (i) Notwithstanding any other provision of law, a supervisee
39 shall receive a minimum of one hour of supervision per week for
40 each setting in which he or she is working.

1 (j) The department may limit, by regulation, the number of
2 registrants that any one supervisor may supervise, the number of
3 registrants that may be supervised in any given program or setting,
4 and the proportion of the workforce in any given program or setting
5 which may be comprised of registrants, or any of these.

6 11975.60. The supervised experience required by Sections
7 11975.35 and 11975.40 shall meet all of the following criteria:

8 (a) Not more than 40 hours of work in any seven consecutive
9 days shall be recognized.

10 (b) No hours of experience may be gained more than six years
11 prior to the date the application for registration, certification, or
12 licensure, as applicable, was filed, except as provided in
13 subparagraph (B) of paragraph (1) of subdivision (b) of Section
14 11975.35.

15 (c) All work experience shall be at all times under the
16 supervision of a person authorized to provide clinical supervision
17 pursuant to this part, who shall be responsible for ensuring that
18 the extent, kind, and quality of counseling performed is consistent
19 with the training and experience of the person being supervised,
20 and who shall be responsible to the department for compliance
21 with all laws, rules, and regulations governing the practice of
22 alcohol and other drug counseling. Supervised experience shall be
23 gained either as an employee or as a volunteer. Experience shall
24 not be gained as an independent contractor.

25 (1) Supervision shall include at least one hour of direct
26 supervisor contact in each week for which experience is credited
27 in each work setting, as specified.

28 (2) For purposes of this section, “one hour of direct supervisor
29 contact” means one hour of face-to-face contact on an individual
30 basis or two hours of face-to-face contact in a group of not more
31 than eight persons.

32 (d) Work experience may be completed in any setting that meets
33 all of the following:

34 (1) Lawfully and regularly provides alcohol and other drug
35 counseling.

36 (2) Provides oversight to ensure that the registrant’s work at the
37 setting meets the requirements set forth in this part.

38 (3) Experience may be gained solely as part of the position for
39 which the individual volunteers or is employed. Employers are
40 encouraged to provide fair remuneration to registrants.

1 (e) Except to the extent that the department provides otherwise
2 by regulation, all persons shall register with the department in
3 order to be credited for the work experience necessary for licensure
4 or certification.

5 (f) A registrant shall not receive any remuneration from patients
6 or clients, and shall be paid only by his or her employer.

7 11975.65. Nothing in this part shall be construed to constrict,
8 limit, or withdraw the Medical Practice Act (Chapter 5
9 (commencing with Section 2000)), the Nursing Practice Act
10 (Chapter 6 (commencing with Section 2700)), the Psychology
11 Licensing Act (Chapter 6.6 (commencing with Section 2900)), the
12 Marriage and Family Therapist Act (Chapter 13 (commencing
13 with Section 4980)), or the Clinical Social Worker Practice Act
14 (Chapter 14 (commencing with Section 4991)) of Division 2 of
15 the Business and Professions Code.

16 11975.70. This part shall not apply to any of the following,
17 provided that this exception shall not preclude the department from
18 considering any conduct in any setting in its determination of
19 fitness for registration, certification, or licensure or in any
20 disciplinary matter:

21 (a) A person who engages in the practice of alcohol and drug
22 counseling exclusively for any of the following:

23 (1) For in-custody services of the California Department of
24 Corrections and Rehabilitation.

25 (2) As an employee or volunteer of the State of California.

26 (3) As an employee or volunteer of an agency of the United
27 States government.

28 (b) A person who is an unpaid member of a peer or self-help
29 group who performs peer group or self-help activities if the person
30 does not use a title stating or implying that he or she is a licensed
31 alcohol and drug counselor or any other designation listed in
32 Section 11975.85.

33 (c) A cleric or other religious leader who provides advice and
34 guidance to members of his or her congregation or order free of
35 charge.

36 (d) A director, officer, or staff member of a program described
37 in Section 8001 of the Penal Code.

38 11975.75. (a) An individual licensed or certified under this
39 part may engage in the practice of alcohol and drug counseling.
40 For purposes of this part, the “practice of alcohol and drug

1 counseling” means performing any of the following services for
2 the purpose of treating alcohol and drug abuse:

- 3 (1) Initial intake.
- 4 (2) Assessment.
- 5 (3) Orientation.
- 6 (4) Treatment planning.
- 7 (5) Alcohol and drug counseling, including individual, group,
8 and significant others.
- 9 (6) Case management.
- 10 (7) Crisis intervention.
- 11 (8) Client education.
- 12 (9) Referral.
- 13 (10) Reports and recordkeeping.
- 14 (11) Consultation with other professionals with regard to client
15 treatment or services.

16 (b) A counselor or registrant may perform the acts listed in this
17 section only for the purpose of treating alcohol and other drug
18 problems.

19 11975.80. The department shall issue a license or certification
20 to each applicant meeting the requirements of this part, which
21 license or certification permits the holder to engage in alcohol and
22 other drug counseling as defined in Section 11975.75, entitles the
23 holder to use the title of licensed or certified alcohol and other
24 drug counselor, as applicable, and authorizes the holder to hold
25 himself or herself out as qualified to perform the functions
26 delineated by this part, subject to any limitations relating to the
27 level of the license or certification or other conditions that may be
28 imposed by the department. The form and content of the license
29 or certification shall be determined by the department.

30 11975.85. A person who has received a certificate or license
31 under this part may use the title “Certified Alcohol and Other Drug
32 Counselor” or “CAODC,” “Certified Alcohol and Other Drug
33 Counselor – Advanced” or “CAODC-A,” “Certified Alcohol and
34 Other Drug Counselor – Clinical Supervisor” or “CAODC-CS,”
35 or “Licensed Alcohol and Other Drug Counselor” or “LAODC,”
36 in accordance with the type of certificate or license possessed.
37 Every person who styles himself or herself or who holds himself
38 or herself out to be a Certified Alcohol and Other Drug Counselor,
39 Certified Alcohol and Other Drug Counselor—Advanced, Certified
40 Alcohol and other Drug Counselor-Clinical Supervisor, or Licensed

1 Alcohol and Other Drug Counselor without holding a license or
2 certification in good standing under this part, is guilty of a
3 misdemeanor.

4 11975.90. It is unlawful for a person to engage in the practice
5 of alcohol and other drug counseling unless at the time of so doing
6 the person holds a valid, unexpired, and unrevoked certificate or
7 license under this part.

8 11975.95. The department may deny, revoke, suspend, or
9 impose conditions upon a license, certification, or registration for
10 unprofessional conduct. Unprofessional conduct, includes, but is
11 not limited to, any of the following:

12 (a) The conviction of a crime which permits denial of a license,
13 certification, or registration pursuant to Section 11976.45.

14 (b) Securing a license or registration by fraud, deceit, or
15 misrepresentation on any application submitted to the department,
16 whether engaged in by an applicant for a license or registration,
17 or by a licensee in support of any application for licensure or
18 registration.

19 (c) Administering to himself or herself any controlled substance
20 as defined in Section 4021 of the Business and Professions Code,
21 or using any of the dangerous drugs or devices specified in Section
22 4022 of the Business and Professions Code or using any alcoholic
23 beverage to the extent, or in a manner, as to be dangerous or
24 injurious to the person applying for a registration or license or
25 holding a registration or license under this part, or to any other
26 person, or to the public, or, to the extent that the use impairs the
27 ability of the person applying for or holding a registration or
28 license, to conduct with safety to the public the counseling
29 authorized by the registration or license. The department may deny
30 an application for a registration or license or revoke the license or
31 registration of any person who uses or offers to use a controlled
32 substance as defined in Section 4021 of the Business and
33 Professions Code, a dangerous drug or device specified in Section
34 4022 of the Business and Professions Code, or alcohol in the course
35 of performing alcohol and other drug counseling. This provision
36 does not apply to any person also licensed as a physician and
37 surgeon under Chapter 5 (commencing with Section 2000) of the
38 Business and Professions Code or the Osteopathic Act who
39 lawfully prescribes drugs to a patient under his or her care.

- 1 (d) Gross negligence or incompetence in the performance of
2 alcohol and other drug counseling.
- 3 (e) Violating, attempting to violate, or conspiring to violate this
4 part or any regulation adopted by the department.
- 5 (f) Misrepresentation as to the type or status of a license,
6 certification, or registration held by the person, or otherwise
7 misrepresenting or permitting misrepresentation of his or her
8 education, professional qualifications, or professional affiliations
9 to any person or entity.
- 10 (g) Impersonation of another by any counselor or registrant, or
11 applicant for a license or registration, or, in the case of a counselor,
12 allowing any other person to use his or her license or registration.
- 13 (h) Aiding or abetting any unlicensed, uncertified, or
14 unregistered person to engage in conduct for which a license,
15 certification, or registration is required under this part.
- 16 (i) Intentionally or recklessly causing physical or emotional
17 harm to any client.
- 18 (j) The commission of any dishonest, corrupt, or fraudulent act
19 substantially related to the qualifications, functions, or duties of a
20 counselor or registrant.
- 21 (k) Engaging in sexual relations with a client or with a former
22 client within two years from the termination date of therapy with
23 the client, soliciting sexual relations with a client, or committing
24 an act of sexual abuse, or sexual misconduct with a client, or
25 committing an act punishable as a sexually related crime, if that
26 act or solicitation is substantially related to the qualifications,
27 functions, or duties of an alcohol and other drug counselor.
- 28 (l) Performing, or holding oneself out as being able to perform,
29 or offering to perform, or permitting any licensee under supervision
30 to perform any professional services beyond the scope of the
31 license authorized by this part.
- 32 (m) Failure to maintain confidentiality, except as otherwise
33 required or permitted by law, including, but not limited to, Part 2
34 (commencing with Section 2.1) of Subchapter A of Chapter 1 of
35 Title 42 of the Code of Federal Regulations.
- 36 (n) Prior to the commencement of treatment, failing to disclose
37 to the client or prospective client the fee to be charged for the
38 professional services, or the basis upon which that fee will be
39 computed.

1 (o) Paying, accepting, or soliciting any consideration,
 2 compensation, or remuneration, whether monetary or otherwise,
 3 for the referral of professional clients. All consideration,
 4 compensation, or remuneration shall be in relation to professional
 5 counseling services actually provided by the licensee. Nothing in
 6 this subdivision shall prevent collaboration among two or more
 7 licensees in a case or cases. However, no fee shall be charged for
 8 that collaboration, except when disclosure of the fee has been made
 9 in compliance with subdivision (n).

10 (p) Advertising or using a name in a manner that is false,
 11 misleading, or deceptive.

12 (q) Conduct in the supervision of any individual licensed,
 13 certified, or registered counselor that violates this part or rules or
 14 regulations adopted by the department.

15 (r) Failure to keep records consistent with sound professional
 16 judgment, the standards of the profession, and the nature of the
 17 services being rendered.

18 (s) Failure to comply with the child abuse reporting requirements
 19 of Section 11166 of the Penal Code.

20 (t) Failure to comply with the elder and dependent adult abuse
 21 reporting requirements of Section 15630 of the Welfare and
 22 Institutions Code.

23 (u) Willful denial of access to client records as otherwise
 24 provided by law.

25 11976.10. The department shall revoke a license, certification,
 26 or registration issued under this part upon a decision made in
 27 accordance with the procedures set forth in the adjudication
 28 provisions of the Administrative Procedure Act (Chapter 5
 29 (commencing with Section 11500) of Part 1 of Division 3 of Title
 30 2 of the Government Code) that contains any finding of fact that
 31 the counselor or registrant engaged in any act of sexual contact,
 32 as defined in Section 729 of the Business and Professions Code,
 33 when that act is with a client, or with a former client when the
 34 relationship was terminated primarily for the purpose of engaging
 35 in that act. The revocation shall not be stayed by the administrative
 36 law judge or the department.

37 11976.15. The department may deny an application, or may
 38 suspend or revoke a license, certification, or registration issued
 39 under this part, for denial of licensure, revocation, suspension,
 40 restriction, or other disciplinary action imposed by another state

1 or territory of the United States, or by any other governmental
2 agency, on a license, certificate, or registration to practice alcohol
3 and other drug counseling or other healing art. A certified copy of
4 the disciplinary action decision or judgment shall be conclusive
5 evidence of that action.

6 11976.20. The director may temporarily suspend a license,
7 certification, or registration prior to a hearing when, in the opinion
8 of the director, the action is necessary to protect a client from
9 physical or mental abuse, abandonment, or other substantial threat
10 to health or safety. The director shall give notice of the temporary
11 suspension and the effective date of the temporary suspension and,
12 at the same time, shall serve an accusation. Upon receipt of a notice
13 of defense to the accusation, the director shall, within 15 days, set
14 the matter for hearing, and the hearing shall be held as soon as
15 possible. The temporary suspension shall remain in effect until the
16 time the hearing is completed and the director has made a final
17 determination on the need for the temporary suspension to remain
18 in place pending resolution of the accusation. However, the
19 temporary suspension shall be deemed vacated if the director fails
20 to make a final determination on the merits within 30 days after
21 the hearing, if the director hears the matter personally or within
22 30 days after the department receives the proposed decision from
23 the Office of Administrative Hearings, or if the matter is heard by
24 a hearing officer.

25 11976.25. (a) A person licensed, certified, or registered by the
26 department under this part has the right to appeal an adverse
27 decision of the department with regard to his or her license,
28 certificate, or registration.

29 (b) Unless the department specifies additional or different due
30 process provisions by regulation, an appeal shall be determined in
31 accordance with the adjudication provisions of the Administrative
32 Procedure Act (Chapter 5 (commencing with Section 11500) of
33 Part 1 of Division 3 of Title 2 of the Government Code).

34 11976.30. The department may impose reasonable terms,
35 conditions, or restrictions on a disciplinary action to protect the
36 health, safety, and welfare of the public.

37 11976.35. A person may request reinstatement of a license or
38 certification, or a reduction of discipline, by applying for
39 reinstatement or reduction pursuant to Section 11522 of the
40 Government Code.

1 11976.40. An applicant who fails a written or oral examination
2 administered by or on behalf of the department may within one
3 year from the notification date of failure retake that examination
4 at the next regularly scheduled examination date, without further
5 application, upon payment of the required examination fees.
6 Thereafter, the applicant shall not be eligible for further
7 examination until he or she files a new application, meets all
8 current requirements, and pays all required fees.

9 11976.45. (a) An applicant for a license, certification, or
10 registration under this part shall consent to a state and federal level
11 criminal offender record information search as part of a criminal
12 history background check. Refusal to consent to the criminal
13 history background check, as delineated in this section, shall result
14 in denial of the license, certification, or registration.

15 (b) In addition to the persons specified in subdivision (a), this
16 section also applies to all employees and volunteers of programs,
17 facilities, or services licensed or certified by the department, who
18 may have unsupervised contact with clients.

19 (c) The following procedure shall be followed for criminal
20 offender record information searches:

21 (1) The department shall submit to the Department of Justice
22 fingerprint images and related information required by the
23 Department of Justice of all alcohol and other drug counselor
24 licensure, certification, or registration applicants, as defined by
25 Section 11975.25, and all employees and volunteers of programs,
26 facilities, or services licensed or certified by the department, who
27 may have unsupervised contact with clients for the purposes of
28 obtaining information as to the existence and content of a record
29 of state or federal convictions and state or federal arrests and also
30 information as to the existence and content of a record of state or
31 federal arrests for which the Department of Justice establishes that
32 the person is free on bail or on his or her own recognizance pending
33 trial or appeal.

34 (2) When received, the Department of Justice shall forward to
35 the Federal Bureau of Investigation requests for federal summary
36 criminal history information received pursuant to this section. The
37 Department of Justice shall review the information returned from
38 the Federal Bureau of Investigation and compile and disseminate
39 a response to the department.

1 (3) The Department of Justice shall provide a response to the
2 department pursuant to paragraph (1) of subdivision (p) of Section
3 11105 of the Penal Code.

4 (4) The department shall request from the Department of Justice
5 subsequent arrest notification service, as provided pursuant to
6 Section 11105.2 of the Penal Code, for persons described in
7 paragraph (1).

8 (5) The Department of Justice shall charge fees sufficient to
9 cover the cost of processing the request described in this section.
10 The applicant shall be responsible for payment of these fees.

11 (6) The applicant shall pay the fingerprint image rolling -
12 electronic submission fee charged by the Live Scan device operator.

13 (d) Before issuing a registration, certification, or license to an
14 individual defined in subdivision (a) or a clearance to an individual
15 defined in subdivision (b), the department shall ensure that the
16 state and federal level criminal history of the applicant is reviewed.

17 (e) The department shall deny or revoke a license, certification,
18 or registration to an individual if, at the time of the department's
19 determination, the person would be ineligible to be sentenced to
20 probation pursuant to Section 1210.1 of the Penal Code, subject
21 to all of the following conditions:

22 (1) The department shall treat its date of determination as
23 equivalent to the date of conviction of a nonviolent drug possession
24 offense under Section 1210.1 of the Penal Code.

25 (2) The department shall apply the five-year clearing period in
26 paragraph (1) of subdivision (b) of Section 1210.1 of the Penal
27 Code to all of the exclusions described in subdivision (b) of Section
28 1210.1 of the Penal Code.

29 (f) Notwithstanding subdivision (e), and unless the individual
30 concerned has obtained a certificate of rehabilitation as provided
31 in Chapter 3.5 (commencing with Section 4852.01) of Part 3 of
32 Title 6 of the Penal Code, the department shall permanently deny
33 or revoke a license, certification, or registration to a person
34 convicted of any violent felony as defined in subdivision (c) of
35 Section 667.5 of the Penal Code, except that a person convicted
36 of robbery, as specified in paragraph (9) of subdivision (c) of
37 Section 667.5 of the Penal Code, or burglary as specified in
38 paragraph (21) of subdivision (c) of Section 667.5 of the Penal
39 Code, is not excluded for this reason after a period of 10 years in
40 which the person remained free of both prison custody and the

1 commission of an offense that results in a felony conviction other
2 than a nonviolent drug possession offense, or a misdemeanor
3 conviction involving physical injury or the threat of physical injury
4 to another person.

5 (g) Notwithstanding subdivision (e) or (f), and unless the person
6 concerned has obtained a certificate of rehabilitation as provided
7 in Chapter 3.5 (commencing with Section 4852.01) of Part 3 of
8 Title 6 of the Penal Code, the department shall permanently deny
9 or revoke a license, certification, or registration to a person
10 convicted of driving under the influence of any alcoholic beverage
11 or drug, or under the combined influence of any alcoholic beverage
12 and drug, as specified in Section 23153 of the Vehicle Code, until
13 a period of 10 years has passed since that conviction, during which
14 period the individual remained free of both prison custody and the
15 commission of an offense that results in a felony conviction other
16 than a nonviolent drug possession offense, or a misdemeanor
17 conviction involving physical injury or the threat of physical injury
18 to another person.

19 (h) The department may establish by regulation additional
20 criteria to implement subdivision (g), which may include, but not
21 be limited to, standards, exemptions, and terms of rehabilitation,
22 and may include rebuttable presumptions with regard to any of
23 those.

24 (i) This section shall become operative July 1, 2010.

25 11976.50. (a) Licenses or certifications issued under this part
26 shall expire within two years after the issue date. The expiration
27 date of the original license or certification shall be set by the
28 department.

29 (b) To renew an unexpired license or certification, the counselor
30 shall, on or before the expiration date of the license or certification,
31 complete the following actions:

32 (1) Apply for a renewal on a form prescribed by the department.

33 (2) Pay a two-year renewal fee prescribed by the department.

34 (3) Complete at least 40 hours of continuing education, as
35 approved by the department.

36 (4) Notify the department whether he or she has been convicted,
37 as defined in subdivision (a) of Section 11975.95 of a misdemeanor
38 or felony, or whether any disciplinary action has been taken by
39 any regulatory or licensing board in this or any other state,
40 subsequent to the licensee's last renewal.

1 (c) To renew an expired license or certification within three
2 years of its expiration, the counselor shall, as a condition precedent
3 to renewal, do all of the following:

4 (1) Apply for renewal on a form prescribed by the department
5 within three years of the expiration date of the license.

6 (2) Pay the renewal fees that would have been paid if the license
7 had not been delinquent.

8 (3) Pay all delinquency fees.

9 (4) Complete the applicable continuing education requirements.

10 (5) Notify the department whether he or she has been subject
11 to, or whether another department or board has taken, disciplinary
12 action since the last renewal.

13 (d) A license or certification that is not renewed within three
14 years after its expiration is prohibited from being renewed, restored,
15 reinstated, or reissued thereafter. However, the counselor may
16 apply for and obtain a new license or certification if he or she
17 satisfies all of the following requirements:

18 (1) No fact, circumstance, or condition exists that, if the license
19 or certification were issued, would justify its revocation or
20 suspension.

21 (2) He or she submits an application for examination eligibility.

22 (3) He or she takes and passes the current licensing
23 examinations.

24 (4) He or she submits the fees for examination eligibility and
25 for initial license or certification issuance.

26 11976.55. A counselor shall display his or her license or
27 certification in a conspicuous place in the counselor's primary
28 place of business. The current renewal receipt shall be displayed
29 near the license.

30 11976.60. A licensed alcohol and other drug counselor who
31 conducts a private practice under a fictitious business name shall
32 not use a name that is false, misleading, or deceptive, and shall
33 inform the patient, prior to the commencement of treatment, of the
34 name and license designation of the owner or owners of the
35 practice.

36 11976.65. A license or certification that is not renewed within
37 three years after its expiration is prohibited from being renewed,
38 restored, reinstated, or reissued thereafter, but the former licensed
39 or certified individual may apply for and obtain a new license or
40 certification if all of the following are satisfied:

1 (a) No fact, circumstance, or condition exists that, if the license
2 or certification were issued, would justify its revocation or
3 suspension.

4 (b) He or she pays the fees that would be required if he or she
5 were applying for a license or certification for the first time.

6 (c) He or she meets the current requirements for licensure or
7 certification as a licensed or certified alcohol and other drug
8 counselor under Section 11975.35 or 11975.40.

9 11976.70. A suspended license or certification is subject to
10 expiration and may be renewed as provided in this part, but the
11 renewal does not entitle the counselor, while it remains suspended
12 and until it is reinstated, to engage in the activity to which the
13 license or certification relates, or in any other activity or conduct
14 in violation of the order or judgment by which it was suspended.

15 11976.75. An individual whose license or certificate has been
16 revoked may apply for reinstatement pursuant to Section 11522
17 of the Government Code.

18 11976.80. A licensed or certified alcohol and other drug
19 counselor may apply to the department to request that his or her
20 license or certification be placed on inactive status. A person who
21 holds an inactive license or certification shall pay a biennial fee
22 of one-half of the active renewal fee and shall be exempt from
23 continuing education requirements specified in paragraph (3) of
24 subdivision (b) of Section 11976.50, but shall otherwise be subject
25 to this part and shall not engage in the practice of alcohol and other
26 drug counseling in this state. A counselor on inactive status who
27 has not committed any acts or crimes constituting grounds for
28 denial of licensure or certification may, upon his or her request,
29 have his or her license or certification to practice alcohol other
30 and drug counseling placed on active status. A person requesting
31 his or her license or certification to be placed on active status at
32 any time during a renewal cycle shall pay a pro rata portion of the
33 renewal fees. A person requesting to reactivate from an inactive
34 status whose license or certification will expire less than one year
35 from the date of the request shall be required to complete 20 hours
36 of continuing education for license renewal. A person requesting
37 to reactivate from an inactive status whose license or certification
38 will expire more than one year from the date of the request shall
39 be required to complete 40 hours of continuing education for
40 license or certification renewal.

1 11976.85. A person licensed, certified, or registered under this
2 part shall comply with both of the following:

3 (a) Provide written notice to the department within 30 days of
4 any change of address.

5 (b) Provide written notice to the department within 30 days of
6 a name change giving both the old and the new names along with
7 a copy of the legal document authorizing the name change,
8 including, but not limited to, a court order or marriage license.

9 11976.90. (a) Except as otherwise provided in this part, an
10 accusation filed pursuant to Section 11503 of the Government
11 Code against a person licensed, certified, or registered under this
12 part shall be filed within three years from the date the department
13 discovers the alleged act or omission that is the basis for
14 disciplinary action or within seven years from the date the alleged
15 act or omission that is the basis for disciplinary action occurred,
16 whichever occurs first.

17 (b) An accusation filed against a person licensed, certified, or
18 registered alleging the procurement of a license, certification, or
19 registration by fraud or misrepresentation is not subject to the
20 limitations set forth in subdivision (a).

21 (c) An accusation alleging sexual misconduct shall be filed
22 within three years after the department discovers the act or
23 omission alleged as the grounds for disciplinary action or within
24 10 years after the act or omission alleged as the grounds for
25 disciplinary action occurred, whichever occurs first.

26 (d) If an alleged act or omission involves a minor, the seven-year
27 limitation period provided for by subdivision (a) and the 10-year
28 limitation period provided for by subdivision (d) shall be tolled
29 until the minor reaches the age of majority.

30 (e) The limitation period provided by subdivision (a) shall be
31 tolled during any period if material evidence necessary for
32 prosecuting or determining whether a disciplinary action would
33 be appropriate is unavailable to the department due to an ongoing
34 criminal investigation.

35 (f) For purposes of this section, “discovers” means the latest of
36 the occurrence of any of the following with respect to each act or
37 omission alleged as the basis for disciplinary action:

38 (1) The date the department received a complaint or report
39 describing the act or omission.

1 (2) The date, subsequent to the original complaint or report, on
2 which the department became aware of any additional acts or
3 omissions alleged as the basis for disciplinary action against the
4 same individual.

5 (3) The date the department receives from the complainant a
6 written release of information pertaining to the complainant's
7 diagnosis and treatment.

8 11976.95. Nothing in this part shall apply to any alcohol and
9 other drug counselor from outside this state, when in actual
10 consultation with a licensed practitioner of this state, or when an
11 invited guest of a professional association, or of an educational
12 institution for the sole purpose of engaging in professional
13 education through lectures, clinics, or demonstrations, if he or she
14 is at the time of the consultation, lecture, or demonstration licensed
15 to practice alcohol and other drug counseling in the state or country
16 in which he or she resides. These alcohol and other drug counselors
17 shall not open an office or appoint a place to meet clients or receive
18 calls from clients within the limits of this state.

19 11976.97. (a) Education, supervised experience, and work
20 experience gained outside of California may be accepted toward
21 the licensure or certification requirements if it is substantially the
22 equivalent of the requirements of this part.

23 (b) The department may issue a license or certification to any
24 person who, at the time of application, meets all of the following
25 requirements:

26 (1) Has held a valid active alcohol and other drug counseling
27 license or certification issued by a board of alcohol and other drug
28 counseling examiners or corresponding authority of any state.

29 (2) Passes the licensing examinations as specified in Section
30 11975.35 or 11975.40.

31 (3) Pays the required fees.

32 (4) Passes the required background check.

33 (5) Is not subject to denial of licensure under this part.

34

35

CHAPTER 4. FISCAL PROVISIONS

36

37 11977.10. The Alcohol and Other Drug Counselors License
38 Fund is hereby established in the State Treasury. All fees and fines
39 collected by the department in accordance with this part shall be
40 deposited in this fund. The money in the fund shall be available,

1 upon appropriation by the Legislature, for the purpose of supporting
2 the counselor licensing activities of the department.

3 11977.15. (a) Until the department establishes different fees
4 by regulation, the department shall assess the following fees
5 relating to the licensure, certification, or registration of alcohol
6 and other drug counselors:

7 (1) The application fee for registration as a registrant shall be
8 seventy-five dollars (\$75).

9 (2) The fee for renewal of a registration shall be seventy-five
10 dollars (\$75).

11 (3) The fee for application for examination eligibility shall be
12 one hundred dollars (\$100).

13 (4) The fee for a written examination administered by or on
14 behalf of the department shall be one hundred fifty dollars (\$150).

15 (5) The fee for an oral examination, if any, administered by or
16 on behalf of the department, shall be one hundred dollars (\$100).

17 (A) An applicant who fails to appear for an examination, after
18 having been scheduled to take the examination, shall forfeit the
19 examination fee.

20 (B) This subdivision shall not establish or limit the examination
21 fee charged for the examination recognized in subdivision (a) of
22 Section 11975.50 or any other examination that is recognized by
23 the department but not administered by or on behalf of the
24 department.

25 (6) The fee for rescoring an examination shall be twenty dollars
26 (\$20).

27 (7) The fee for issuance of an initial license or certification shall
28 be one hundred fifty-five dollars (\$155).

29 (8) The fee for a license or certification renewal shall be one
30 hundred fifty-five dollars (\$155).

31 (9) The fee for an inactive license or certification renewal shall
32 be seventy-seven dollars and fifty cents (\$77.50).

33 (10) The renewal delinquency fee shall be seventy-five dollars
34 (\$75). A person who permits his or her license or certification to
35 expire is subject to the delinquency fee.

36 (11) The fee for issuance of a replacement registration, license,
37 or certificate shall be twenty dollars (\$20).

38 (12) The fee for issuance of a certificate or letter of good
39 standing shall be twenty-five dollars (\$25).

1 (13) The fee for department review of the criminal records
2 information shall be thirty dollars (\$30).

3 (14) The fee for the state level criminal offender record
4 information search shall be set by the Department of Justice and
5 the fee for the federal level criminal offender record information
6 search shall be set by the Federal Bureau of Investigation.

7 (b) The department may establish fees based on other categories
8 or classifications that the department deems necessary or
9 convenient to maintain an effective and equitable fee structure.
10 However, the total fees collected by the department pursuant to
11 this part shall not exceed the total cost to the department of
12 administering this part.

13 (c) Unless funds are specifically appropriated from the General
14 Fund in the annual Budget Act or other legislation to support the
15 activities of the department pursuant to this part, those activities
16 shall be supported entirely by federal funds and special funds.

17 SEC. 2. Section 11165.7 of the Penal Code is amended to read:

18 11165.7. (a) As used in this article, “mandated reporter” is
19 defined as any of the following:

20 (1) A teacher.

21 (2) An instructional aide.

22 (3) A teacher’s aide or teacher’s assistant employed by any
23 public or private school.

24 (4) A classified employee of any public school.

25 (5) An administrative officer or supervisor of child welfare and
26 attendance, or a certificated pupil personnel employee of any public
27 or private school.

28 (6) An administrator of a public or private day camp.

29 (7) An administrator or employee of a public or private youth
30 center, youth recreation program, or youth organization.

31 (8) An administrator or employee of a public or private
32 organization whose duties require direct contact and supervision
33 of children.

34 (9) Any employee of a county office of education or the State
35 Department of Education, whose duties bring the employee into
36 contact with children on a regular basis.

37 (10) A licensee, an administrator, or an employee of a licensed
38 community care or child day care facility.

39 (11) A Head Start program teacher.

- 1 (12) A licensing worker or licensing evaluator employed by a
2 licensing agency as defined in Section 11165.11.
- 3 (13) A public assistance worker.
- 4 (14) An employee of a child care institution, including, but not
5 limited to, foster parents, group home personnel, and personnel of
6 residential care facilities.
- 7 (15) A social worker, probation officer, or parole officer.
- 8 (16) An employee of a school district police or security
9 department.
- 10 (17) Any person who is an administrator or presenter of, or a
11 counselor in, a child abuse prevention program in any public or
12 private school.
- 13 (18) A district attorney investigator, inspector, or local child
14 support agency caseworker unless the investigator, inspector, or
15 caseworker is working with an attorney appointed pursuant to
16 Section 317 of the Welfare and Institutions Code to represent a
17 minor.
- 18 (19) A peace officer, as defined in Chapter 4.5 (commencing
19 with Section 830) of Title 3 of Part 2, who is not otherwise
20 described in this section.
- 21 (20) A firefighter, except for volunteer firefighters.
- 22 (21) A physician, surgeon, psychiatrist, psychologist, dentist,
23 resident, intern, podiatrist, chiropractor, licensed nurse, dental
24 hygienist, optometrist, marriage, family and child counselor,
25 clinical social worker, or any other person who is currently licensed
26 under Division 2 (commencing with Section 500) of the Business
27 and Professions Code.
- 28 (22) Any emergency medical technician I or II, paramedic, or
29 other person certified pursuant to Division 2.5 (commencing with
30 Section 1797) of the Health and Safety Code.
- 31 (23) A psychological assistant registered pursuant to Section
32 2913 of the Business and Professions Code.
- 33 (24) A marriage, family, and child therapist trainee, as defined
34 in subdivision (c) of Section 4980.03 of the Business and
35 Professions Code.
- 36 (25) An unlicensed marriage, family, and child therapist intern
37 registered under Section 4980.44 of the Business and Professions
38 Code.
- 39 (26) A state or county public health employee who treats a minor
40 for venereal disease or any other condition.

1 (27) A coroner.

2 (28) A medical examiner, or any other person who performs
3 autopsies.

4 (29) A commercial film and photographic print processor, as
5 specified in subdivision (e) of Section 11166. As used in this
6 article, “commercial film and photographic print processor” means
7 any person who develops exposed photographic film into negatives,
8 slides, or prints, or who makes prints from negatives or slides, for
9 compensation. The term includes any employee of such a person;
10 it does not include a person who develops film or makes prints for
11 a public agency.

12 (30) A child visitation monitor. As used in this article, “child
13 visitation monitor” means any person who, for financial
14 compensation, acts as monitor of a visit between a child and any
15 other person when the monitoring of that visit has been ordered
16 by a court of law.

17 (31) An animal control officer or humane society officer. For
18 the purposes of this article, the following terms have the following
19 meanings:

20 (A) “Animal control officer” means any person employed by a
21 city, county, or city and county for the purpose of enforcing animal
22 control laws or regulations.

23 (B) “Humane society officer” means any person appointed or
24 employed by a public or private entity as a humane officer who is
25 qualified pursuant to Section 14502 or 14503 of the Corporations
26 Code.

27 (32) A clergy member, as specified in subdivision (d) of Section
28 11166. As used in this article, “clergy member” means a priest,
29 minister, rabbi, religious practitioner, or similar functionary of a
30 church, temple, or recognized denomination or organization.

31 (33) Any custodian of records of a clergy member, as specified
32 in this section and subdivision (d) of Section 11166.

33 (34) Any employee of any police department, county sheriff’s
34 department, county probation department, or county welfare
35 department.

36 (35) An employee or volunteer of a Court Appointed Special
37 Advocate program, as defined in Rule 1424 of the California Rules
38 of Court.

39 (36) A custodial officer as defined in Section 831.5.

1 (37) Any person providing services to a minor child under
2 Section 12300 or 12300.1 of the Welfare and Institutions Code.

3 (38) An alcohol and *other* drug counselor *or supervisor licensed,*
4 *certified, or registered under Part 4 (commencing with Section*
5 *11975.10) of Division 10.5 of the Health and Safety Code. As used*
6 ~~in this article, an “alcohol and drug counselor” is a person~~
7 ~~providing counseling, therapy, or other clinical services for a state~~
8 ~~licensed or certified drug, alcohol, or drug and alcohol treatment~~
9 ~~program.~~ However, alcohol or drug abuse, or both alcohol and
10 drug abuse, is not in and of itself a sufficient basis for reporting
11 child abuse or neglect.

12 (b) Except as provided in paragraph (35) of subdivision (a),
13 volunteers of public or private organizations whose duties require
14 direct contact with and supervision of children are not mandated
15 reporters but are encouraged to obtain training in the identification
16 and reporting of child abuse and neglect and are further encouraged
17 to report known or suspected instances of child abuse or neglect
18 to an agency specified in Section 11165.9.

19 (c) Employers are strongly encouraged to provide their
20 employees who are mandated reporters with training in the duties
21 imposed by this article. This training shall include training in child
22 abuse and neglect identification and training in child abuse and
23 neglect reporting. Whether or not employers provide their
24 employees with training in child abuse and neglect identification
25 and reporting, the employers shall provide their employees who
26 are mandated reporters with the statement required pursuant to
27 subdivision (a) of Section 11166.5.

28 (d) School districts that do not train their employees specified
29 in subdivision (a) in the duties of mandated reporters under the
30 child abuse reporting laws shall report to the State Department of
31 Education the reasons why this training is not provided.

32 (e) Unless otherwise specifically provided, the absence of
33 training shall not excuse a mandated reporter from the duties
34 imposed by this article.

35 (f) Public and private organizations are encouraged to provide
36 their volunteers whose duties require direct contact with and
37 supervision of children with training in the identification and
38 reporting of child abuse and neglect.

39 SEC. 3. Section 15630 of the Welfare and Institutions Code is
40 amended to read:

1 15630. (a) Any person who has assumed full or intermittent
 2 responsibility for the care or custody of an elder or dependent
 3 adult, whether or not he or she receives compensation, including
 4 administrators, supervisors, and any licensed staff of a public or
 5 private facility that provides care or services for elder or dependent
 6 adults, or any elder or dependent adult care custodian, health
 7 practitioner, clergy member, or employee of a county adult
 8 protective services agency or a local law enforcement agency, is
 9 a mandated reporter. *An alcohol and other drug counselor or*
 10 *supervisor licensed, certified, or registered pursuant to Part 4*
 11 *(commencing with Section 11975.10) of Division 10.5 of the Health*
 12 *and Safety Code is also a mandated reporter.*

13 (b) (1) Any mandated reporter who, in his or her professional
 14 capacity, or within the scope of his or her employment, has
 15 observed or has knowledge of an incident that reasonably appears
 16 to be physical abuse, as defined in Section 15610.63 of the ~~Welfare~~
 17 ~~and Institutions Code~~, abandonment, abduction, isolation, financial
 18 abuse, or neglect, or is told by an elder or dependent adult that he
 19 or she has experienced behavior, including an act or omission,
 20 constituting physical abuse, as defined in Section 15610.63 of the ~~Welfare~~
 21 ~~and Institutions Code~~, abandonment, abduction, isolation,
 22 financial abuse, or neglect, or reasonably suspects that abuse, shall
 23 report the known or suspected instance of abuse by telephone
 24 immediately or as soon as practicably possible, and by written
 25 report sent within two working days, as follows:

26 (A) If the abuse has occurred in a long-term care facility, except
 27 a state mental health hospital or a state developmental center, the
 28 report shall be made to the local ombudsperson or the local law
 29 enforcement agency.

30 The local ombudsperson and the local law enforcement agency
 31 shall, as soon as practicable, except in the case of an emergency
 32 or pursuant to a report required to be made pursuant to clause (v),
 33 in which case these actions shall be taken immediately, do all of
 34 the following:

35 (i) Report to the State Department of Public Health any case of
 36 known or suspected abuse occurring in a long-term health care
 37 facility, as defined in subdivision (a) of Section 1418 of the Health
 38 and Safety Code.

39 (ii) Report to the State Department of Social Services any case
 40 of known or suspected abuse occurring in a residential care facility

1 for the elderly, as defined in Section 1569.2 of the Health and
2 Safety Code, or in an adult day care facility, as defined in paragraph
3 (2) of subdivision (a) of Section 1502.

4 (iii) Report to the State Department of Public Health and the
5 California Department of Aging any case of known or suspected
6 abuse occurring in an adult day health care center, as defined in
7 subdivision (b) of Section 1570.7 of the Health and Safety Code.

8 (iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse
9 any case of known or suspected criminal activity.

10 (v) Report all cases of known or suspected physical abuse and
11 financial abuse to the local district attorney's office in the county
12 where the abuse occurred.

13 (B) If the suspected or alleged abuse occurred in a state mental
14 hospital or a state developmental center, the report shall be made
15 to designated investigators of the State Department of Mental
16 Health or the State Department of Developmental Services, or to
17 the local law enforcement agency.

18 Except in an emergency, the local law enforcement agency shall,
19 as soon as practicable, report any case of known or suspected
20 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

21 (C) If the abuse has occurred any place other than one described
22 in subparagraph (A), the report shall be made to the adult protective
23 services agency or the local law enforcement agency.

24 (2) (A) A mandated reporter who is a clergy member who
25 acquires knowledge or reasonable suspicion of elder or dependent
26 adult abuse during a penitential communication is not subject to
27 paragraph (1). For purposes of this subdivision, "penitential
28 communication" means a communication that is intended to be in
29 confidence, including, but not limited to, a sacramental confession
30 made to a clergy member who, in the course of the discipline or
31 practice of his or her church, denomination, or organization is
32 authorized or accustomed to hear those communications and under
33 the discipline tenets, customs, or practices of his or her church,
34 denomination, or organization, has a duty to keep those
35 communications secret.

36 (B) Nothing in this subdivision shall be construed to modify or
37 limit a clergy member's duty to report known or suspected elder
38 and dependent adult abuse when he or she is acting in the capacity
39 of a care custodian, health practitioner, or employee of an adult
40 protective services agency.

1 (C) Notwithstanding any other provision in this section, a clergy
2 member who is not regularly employed on either a full-time or
3 part-time basis in a long-term care facility or does not have care
4 or custody of an elder or dependent adult shall not be responsible
5 for reporting abuse or neglect that is not reasonably observable or
6 discernible to a reasonably prudent person having no specialized
7 training or experience in elder or dependent care.

8 (3) (A) A mandated reporter who is a physician and surgeon,
9 a registered nurse, or a psychotherapist, as defined in Section 1010
10 of the Evidence Code, shall not be required to report, pursuant to
11 paragraph (1), an incident where all of the following conditions
12 exist:

13 (i) The mandated reporter has been told by an elder or dependent
14 adult that he or she has experienced behavior constituting physical
15 abuse, as defined in Section 15610.63 ~~of the Welfare and~~
16 ~~Institutions Code~~, abandonment, abduction, isolation, financial
17 abuse, or neglect.

18 (ii) The mandated reporter is not aware of any independent
19 evidence that corroborates the statement that the abuse has
20 occurred.

21 (iii) The elder or dependent adult has been diagnosed with a
22 mental illness or dementia, or is the subject of a court-ordered
23 conservatorship because of a mental illness or dementia.

24 (iv) In the exercise of clinical judgment, the physician and
25 surgeon, the registered nurse, or the psychotherapist, as defined
26 in Section 1010 of the Evidence Code, reasonably believes that
27 the abuse did not occur.

28 (B) This paragraph shall not be construed to impose upon
29 mandated reporters a duty to investigate a known or suspected
30 incident of abuse and shall not be construed to lessen or restrict
31 any existing duty of mandated reporters.

32 (4) (A) In a long-term care facility, a mandated reporter shall
33 not be required to report as a suspected incident of abuse, as defined
34 in Section 15610.07, an incident where all of the following
35 conditions exist:

36 (i) The mandated reporter is aware that there is a proper plan
37 of care.

38 (ii) The mandated reporter is aware that the plan of care was
39 properly provided or executed.

1 (iii) A physical, mental, or medical injury occurred as a result
2 of care provided pursuant to clause (i) or (ii).

3 (iv) The mandated reporter reasonably believes that the injury
4 was not the result of abuse.

5 (B) This paragraph shall not be construed to require a mandated
6 reporter to seek, nor to preclude a mandated reporter from seeking,
7 information regarding a known or suspected incident of abuse prior
8 to reporting. This paragraph shall apply only to those categories
9 of mandated reporters that the State Department of Public Health
10 determines, upon approval by the Bureau of Medi-Cal Fraud and
11 Elder Abuse and the state long-term care ombudsperson, have
12 access to plans of care and have the training and experience
13 necessary to determine whether the conditions specified in this
14 section have been met.

15 (c) (1) Any mandated reporter who has knowledge, or
16 reasonably suspects, that types of elder or dependent adult abuse
17 for which reports are not mandated have been inflicted upon an
18 elder or dependent adult, or that his or her emotional well-being
19 is endangered in any other way, may report the known or suspected
20 instance of abuse.

21 (2) If the suspected or alleged abuse occurred in a long-term
22 care facility other than a state mental health hospital or a state
23 developmental center, the report may be made to the long-term
24 care ombudsperson program. Except in an emergency, the local
25 ombudsperson shall report any case of known or suspected abuse
26 to the State Department of Public Health and any case of known
27 or suspected criminal activity to the Bureau of Medi-Cal Fraud
28 and Elder Abuse, as soon as is practicable.

29 (3) If the suspected or alleged abuse occurred in a state mental
30 health hospital or a state developmental center, the report may be
31 made to the designated investigator of the State Department of
32 Mental Health or the State Department of Developmental Services
33 or to a local law enforcement agency or to the local ombudsperson.
34 Except in an emergency, the local ombudsperson and the local law
35 enforcement agency shall report any case of known or suspected
36 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse,
37 as soon as is practicable.

38 (4) If the suspected or alleged abuse occurred in a place other
39 than a place described in paragraph (2) or (3), the report may be
40 made to the county adult protective services agency.

1 (5) If the conduct involves criminal activity not covered in
2 subdivision (b), it may be immediately reported to the appropriate
3 law enforcement agency.

4 (d) When two or more mandated reporters are present and jointly
5 have knowledge or reasonably suspect that types of abuse of an
6 elder or a dependent adult for which a report is or is not mandated
7 have occurred, and when there is agreement among them, the
8 telephone report may be made by a member of the team selected
9 by mutual agreement, and a single report may be made and signed
10 by the selected member of the reporting team. Any member who
11 has knowledge that the member designated to report has failed to
12 do so shall thereafter make the report.

13 (e) A telephone report of a known or suspected instance of elder
14 or dependent adult abuse shall include, if known, the name of the
15 person making the report, the name and age of the elder or
16 dependent adult, the present location of the elder or dependent
17 adult, the names and addresses of family members or any other
18 adult responsible for the elder's or dependent adult's care, the
19 nature and extent of the elder's or dependent adult's condition, the
20 date of the incident, and any other information, including
21 information that led that person to suspect elder or dependent adult
22 abuse, as requested by the agency receiving the report.

23 (f) The reporting duties under this section are individual, and
24 no supervisor or administrator shall impede or inhibit the reporting
25 duties, and no person making the report shall be subject to any
26 sanction for making the report. However, internal procedures to
27 facilitate reporting, ensure confidentiality, and apprise supervisors
28 and administrators of reports may be established, provided they
29 are not inconsistent with this chapter.

30 (g) (1) Whenever this section requires a county adult protective
31 services agency to report to a law enforcement agency, the law
32 enforcement agency shall, immediately upon request, provide a
33 copy of its investigative report concerning the reported matter to
34 that county adult protective services agency.

35 (2) Whenever this section requires a law enforcement agency
36 to report to a county adult protective services agency, the county
37 adult protective services agency shall, immediately upon request,
38 provide to that law enforcement agency a copy of its investigative
39 report concerning the reported matter.

1 (3) The requirement to disclose investigative reports pursuant
2 to this subdivision shall not include the disclosure of social services
3 records or case files that are confidential, nor shall this subdivision
4 be construed to allow disclosure of any reports or records if the
5 disclosure would be prohibited by any other provision of state or
6 federal law.

7 (h) Failure to report, or impeding or inhibiting a report of,
8 physical abuse, as defined in Section 15610.63 of the ~~Welfare and~~
9 ~~Institutions Code~~, abandonment, abduction, isolation, financial
10 abuse, or neglect of an elder or dependent adult, in violation of
11 this section, is a misdemeanor, punishable by not more than six
12 months in the county jail, by a fine of not more than one thousand
13 dollars (\$1,000), or by both that fine and imprisonment. Any
14 mandated reporter who willfully fails to report, or impedes or
15 inhibits a report of, physical abuse, as defined in Section 15610.63
16 of the ~~Welfare and Institutions Code~~, abandonment, abduction,
17 isolation, financial abuse, or neglect of an elder or dependent adult,
18 in violation of this section, where that abuse results in death or
19 great bodily injury, shall be punished by not more than one year
20 in a county jail, by a fine of not more than five thousand dollars
21 (\$5,000), or by both that fine and imprisonment. If a mandated
22 reporter intentionally conceals his or her failure to report an
23 incident known by the mandated reporter to be abuse or severe
24 neglect under this section, the failure to report is a continuing
25 offense until a law enforcement agency specified in paragraph (1)
26 of subdivision (b) of Section 15630 of the ~~Welfare and Institutions~~
27 ~~Code~~ discovers the offense.

28 (i) For purposes of this section, “dependent adult” shall have
29 the same meaning as in Section 15610.23.

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

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