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To: Board Members

Date: May 19, 2009

From: Tracy Rhine
Legislative Analyst

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Subject: Mandatory Fingerprinting Regulations; Modified Text , Title 16 California Code of Regulations, Section 1815

At its February 26, 2009 meeting the Board directed staff to file the final rulemaking package for the proposed regulatory changes to Title 16 of the California Code of Regulations (CCR), Section 1815 and 1886.40 related to mandatory fingerprinting for all Board licensees.

The final rulemaking package was submitted with the Office of Administrative Law (OAL) on April 9, 2009.

In response to concerns expressed by OAL, it is necessary to make the following changes to the proposed regulatory language:

1. Section 1815(a) delete "...as directed by the Board..."
2. Section 1815(d), amend to read " Licensees and registrants shall pay the actual costs for furnishing the fingerprints and conducting the searches in compliance with subdivision(a)."

Staff Recommendation: Direct staff to take all steps necessary to complete the rulemaking process, including preparing modified text for an additional 15-day comment period. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt 16 CCR Section 1815 of the proposed regulations with the modified text.

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BOARD FO BEHAVIORAL SCIENCES

Modified Text

Changes to the originally proposed language are shown by double underline for new text and underline with strikeout for deleted text.

§1815 FINGERPRINT SUBMISSION

(a) All licensees and registrants who have not previously submitted fingerprints as a condition of licensure or registration or for whom an electronic record of the licensee's fingerprints does not exist in the Department of Justice's criminal offender record identification database shall successfully complete a state and federal level criminal offender record information search conducted through the Department of Justice by the licensee's or registrant's renewal date that occurs on or after October 31, 2009, ~~or as directed by the board.~~

(b) Failure of a licensee or registrant to comply with subdivision (a) is grounds for disciplinary action by the board against the license or registration.

(c) Licensees and registrants shall retain, for at least three years, as evidence of their having complied with subdivision (a) either a receipt showing that he or she has electronically transmitted his or her fingerprint images to the Department of Justice or, for those licensees or registrants who did not use an electronic fingerprinting system, a receipt evidencing that the licensee's or registrant's fingerprints were taken.

(d) Licensees and registrants shall pay, ~~as directed by the Board, the actual cost of the actual costs for furnishing the fingerprints and conducting the searches in compliance with subdivision (a).~~

(e) As a condition of petitioning the board for reinstatement of a revoked or surrendered license or registration, an applicant shall comply with subsection (a).

(f) The board may waive the requirements of this section for licensees or registrants who are actively serving in the United States military. The board may not return a license or registration to active status until the licensee or registrant has complied with subdivision (a).

Note: Authority cited: Sections 4990.16, 4990.18, 4990.20 and 4996.6, Business and Professions Code. Reference: Sections 4982(a), 4989.54(a), 4992.3(a), and 4996.6, Business and Professions Code; and Sections 11105(b)(10), and 11105(e), Penal Code.

§1886.40. AMOUNT OF FINES

(a) For purposes of this section, a "citable offense" is defined as any violation of the statutes and regulations enforced by the Board of Behavioral Sciences, including Chapters 13 and 14 of Division Two of the Business and Professions Code and Title 16, Division 18, California Code of Regulations.

(b) The executive officer of the board may assess fines for citable offenses which shall not exceed two thousand five hundred dollars (\$2,500) for each investigation except as otherwise

provided in this section. The executive officer shall not impose any duplicate fines for the same violation.

(c) The executive officer of the board may assess fines for citable offenses which shall not exceed five thousand (\$5,000) for each investigation if the violation or count includes one or more of the following circumstances:

(1) The cited person has a history of two or more prior citations for similar violations, except for citations withdrawn or dismissed after appeal.

(2) The citation involves multiple violations that demonstrate a willful disregard of the statutes or regulations.

(3) The citation is for a violation or violations involving a minor, elder or dependent adult, or a person with a physical or mental disability as defined in Section 12926 of the Government Code.

(4) The citation involves unlicensed practice.

(5) The citation involves an unlawful or unauthorized breach of confidentiality.

(6) The citation is for failure to submit fingerprints to the Department of Justice as required by the Board.

(d) The executive officer of the board may assess fines which shall not exceed five thousand dollars (\$5,000) for each violation or count if the violation or count involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare.

Note: Authority cited: Sections 125.9, 148, 149, 4980.60, ~~4987~~ and 4990.14, Business and Professions Code. Reference: Sections 123, 125, 125.9, 136, 141, 148, 149, 480, 651, 654.2, 703, 728, 4980, 4980.02, 4980.30, 4980.43, 4980.44, 4980.45, 4980.46, 4980.48, 4982, 4982.25, 4984, ~~4986.40, 4986.50, 4986.70~~, 4987.7, 4987.8, ~~4987.9~~, 4988, 4988.1, ~~4988.5~~, 4992.3, 4992.36, 4996, 4996.5, 4996.7, 4996.8, 4996.9, 4996.16, 4996.18, 4996.19, 4996.20, 4998.2, 4998.3, 4998.4, Business and Professions Code; and Section 15630, Welfare and Institutions Code.



STATE BUDGET MAY REVISION 2009-10:

TWO BUDGET SCENARIOS

FACED WITH TWO POTENTIAL DEFICIT NUMBERS THE GOVERNOR IS PREPARED TO TACKLE BOTH

“Californians have a right to know the truth about the problems our state is facing and the steps we would have to take to solve our deficit.” (Gov. Arnold Schwarzenegger, 5/14/09)

The global recession has caused California’s revenues to continue their plummet, leaving our state with a \$15.4 billion shortfall that could get worse in a matter of days. If the \$5.8 billion in February budget solutions are rejected on the May 19 ballot, our budget deficit will increase to \$21.3 billion - forcing unprecedented actions that will affect every Californian.

Today, the Governor is releasing two May Revision proposals because he believes the people deserve to know what steps must be taken to balance our budget in both scenarios. While both will be painful, if Propositions 1A-1F fail, California will be faced with a worst-case scenario that will force more severe cuts, borrowing from local governments and the release of undocumented immigrant inmates.

SCENARIO NUMBER 1: May 19 Ballot Propositions Pass And California Faces A \$15.4 Billion Problem

Regardless of the May 19 election, California has a multi-billion budget deficit that must be addressed with difficult but necessary actions that the Governor is pained, but prepared, to take.

➤ In addition to government efficiency measures, reducing the state workforce and selling state assets, the Governor is proposing a mix of cuts, borrowing and other options to close a certain \$15.4 billion deficit.

Some examples include:

- **California will borrow up to \$6 billion through a Revenue Anticipation Warrant (RAW):** The RAW will help avoid deeper cuts to vital state programs and services.
- **Health and Human Services makes up the second largest part of California’s General Fund, meaning the state must find savings in social, developmental and health care services.** Examples include: reducing funding for Healthy Families, rolling back the rate increase for Family Planning Services and reducing Medi-Cal payments to private hospitals by 10 percent.
- **When California’s revenues fall, so does the formula for education spending, translating to a \$3 billion reduction in education spending.** This could mean a school year shortened by five days.
- **Delay all repairs to the State Capitol for one year.**

SCENARIO NUMBER 2: May 19 Ballot Propositions Fail And California Faces A \$21.3 Billion Problem

If the Propositions fail, an additional \$5.8 billion will be tacked on to the current budget deficit - forcing far more severe cuts *on top* of those proposed in scenario 1. A \$21.3 billion budget deficit is a worst-case scenario for California and would leave the Governor no choice but to make deeper cuts and take unprecedented actions.

➤ A \$21.3 billion deficit would force even deeper cuts to state programs and services. Some examples include:

- **Education funding would be cut by an additional \$2.3 billion.** A \$5.4 billion cut could force schools to shorten the school year by 7.5 days, increase class sizes and layoff teachers to absorb the reduced funding levels.
- **Outreach funding for UC and CSU would be fully eliminated.**
- **Funding for public health and social service programs would be cut even further.** These cuts would cut off approximately 225,000 children from the Healthy Families Program and entirely eliminate funding for Substance Abuse Treatment and Crime Prevention and HIV Education and Prevention.

➤ Even those cuts wouldn’t be enough to fill an additional \$5.8 billion gap and California would be forced to take further action. Some examples include:

- **Borrow \$2 billion from local governments.** The Governor has fought to protect the coffers of local governments throughout his administration, but a \$21.3 billion budget deficit leaves the Governor no choice.
- **Release thousands of undocumented immigrant inmates.** With an additional \$5.8 billion problem, the Governor would be forced to release thousands of undocumented immigrant inmates directly into federal custody.

The Governor knows these cuts affect real lives, but the numbers don't lie and this is the reality of the crisis California faces. State government can only spend what it has, and no matter what scenario, we have less. It is the government's responsibility to make the tough decisions to keep California solvent and functioning no matter what the budget problem.

➤ While the deep spending cuts are necessary to avoid a cash crisis, the Governor knows that every Californian is sacrificing and cutting back, so he is taking action to ensure government does the same. To see a list of what the Governor is doing to tighten the state government's belt click [here](#).



STATE BUDGET MAY REVISE 2009-10:

SAVINGS IN STATE GOVERNMENT

GOVERNOR PROPOSES MEASURES TO FIRM UP STATE GOVERNMENT

“We’re going to make government more efficient and we’re going to get rid of that waste and abuse and fraud.”

(Gov. Arnold Schwarzenegger, 1/7/09)

California is again facing a budget shortfall due to the global recession, and today the Governor is proposing measures that, regardless of the outcome of the May 19 election, will help root out waste and redundancy in government, allow the state to take better advantage of its real estate assets to help balance the budget, and improve government efficiency. These measures will help ensure that state government is cutting back and making the necessary sacrifices to balance its budget like every other Californian.

California remains in fiscal crisis due to the economy and the Governor is taking action to make certain the state tightens its belt along with every Californian, while utilizing every available state resource. The Governor wants to do everything he can to minimize the pain of another multi-billion budget deficit on hardworking Californians, so he has proposed the following measures to achieve savings within government:

UTILIZE STATE ASSETS:

California’s real estate is one of our greatest assets and by selling off state property, we could raise over \$1 billion. The Governor is proposing the sale of seven state-owned properties to help get our budget in balance including:

- Cal Expo
- San Quentin State Prison
- Cow Palace
- Del Mar Fairgrounds
- Orange County Fairgrounds
- Ventura County Fair Grounds
- Los Angeles Coliseum

REDUCE THE STATE WORKFORCE:

The Governor is calling for the state workforce to be immediately reduced by 5,000 employees. The Governor has directed his agency secretaries to take action to reduce their staffing levels of General Fund employees.

- Every single Californian is struggling and sacrificing to make ends meet and with a multi-billion dollar deficit we have no choice but to join the rest of the state’s residents in cutting back.

MAKE GOVERNMENT MORE EFFICIENT:

The Governor is committed to making government more efficient through the following measures:

- Streamline and Reorganize Energy Functions. Consolidate and reorganize functions from 12 different entities into a single Department of Energy with a cabinet-level Secretary of Energy.
- Eliminate the following: the Integrated Waste Management Board, the Inspection and Maintenance Review Committee, the Landscape Architects Technical Committee (LATC), the Bureau of Naturopathic Medicine, the Telephone Medical Advice Services Bureau and the Court Reporter Board.
- Consolidate Postsecondary Education Commission, Student Aid Commission and Decentralize Cal Grants
- Eliminate and transfer the functions of the following: the Office of Environmental Health Hazard Assessment to the Department of Public Health, Community Services and Development at Health and Human Services Agency to the Department of Social Services and the new Department of Energy and the Department of Boating and Waterways to the Department of Parks and Recreation.
- Merge the Franchise Tax Board (FTB), the Board of Equalization (BOE), and Employment Development Department (EDD) tax collection operations.
- Consolidate the following: the Board of Geologists and Geophysicists to the State Mining and Geology Board, the Professional Fiduciaries Bureau under the Board of Accountancy, Consolidate the Board of

Behavioral Sciences, the Board of Psychology, and the oversight of psychiatric technicians duties of the Board of Vocational Nursing and Psychiatric Technicians to a new Board of Mental Health, the nursing oversight functions of the Board of Vocational Nursing and Psychiatric Technicians to the Board of Registered Nursing, and the Hearing Aid Dispensers Bureau to the Speech-Language Pathology and Audiology Bureau.

- Merge Department of Corporations, Department of Financial Institutions, Department of Real Estate and Department of Real Estate Appraisers.
- Seek private entity to take over operations of the Science Center.

CALIFORNIA STATE BOARD OF BEHAVIORAL SCIENCES

BILL ANALYSIS

BILL NUMBER: SB 707

VERSION: AMENDED APRIL 22, 2009

AUTHOR: DESAULNIER

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

RECOMMENDED POSITION: NONE

**SUBJECT: ALCOHOL 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 certify or license, at the appropriate level, each person who the Department determines was certified as a counselor on December 31, 2010, in accordance with regulations of the Department in effect on that date. (HSC §11975.30(a))
- 11) States that licenses issued pursuant to # 10 above 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)(2))
 - b. Passes any or all of the following tests as determined by the Department: (HSC §11975.35(b))
 - 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(c))
 - d. Completes 2,080 hours of work experience. (HSC §11975.35(d))
 - e. Submits to a state and federal level criminal offender record information search. (HSC §11975.35(e))
- 13) Requires the Department, beginning January 1, 2011, to issue CAODC-A certificates to persons that meet all of the following requirements: (HSC §11975.37)
 - a. Meets either of the following: (HSC §11975.37(a))

- 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 §11975.37(b))
 - 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 §11975.37(c))
 - d. Completes 2,080 hours of work experience. (HSC §11975.37(d))
 - e. Submits to a state and federal level criminal offender record information search. (HSC §11975.37(e))
- 14) Requires the Department, beginning January 1, 2011, to issue CAODC-CS certificates to persons that meet all of the following requirements: (HSC §11975.39)
- a. Meets either both the following: (HSC §11975.39(a))
 - 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 §11975.39(b))
 - 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 §11975.39(c))
 - d. Completes 2,080 hours of work experience. (HSC §11975.39(d))
 - e. Submits to a state and federal level criminal offender record information search. (HSC §11975.39(e))
- 15) Requires the Department, beginning January 1, 2011, to issue a LAODC license to persons that meet all of the following requirements: (HSC §11975.41)

- 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 §11975.41(a))
 - b. Completes a 40 hour course of education specifically directed to the competencies of clinical supervision. (HSC §11975.41(b))
 - c. Passes any or all of the following tests as determined by the Department: (HSC §11975.41(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 §11975.41(d))
 - e. Completes 6,000 hours of work experience. (HSC §11975.41(e))
 - f. Submits to a state and federal level criminal offender record information search. (HSC §11975.41(f))
- 16) Provides for a grandparenting period for each type of certificate beginning January 1, 2011 through December 31, 2013. (HSC §§ 11975.36, 11975.38 and 11975.40)
- 17) Requires the Department, from January 1, 2011 through December 31, 2013, to issue a LAODC/Previously Certified Counselor License to each person who was certified as a counselor on December 31, 2010 and who meets all of the following requirements: (HSC §11975.42)
- a. Submits to a state and federal level criminal offender record search no later than June 30, 2011; and
 - b. Possesses an advanced certification issued by one of the certifying organizations recognized by the department under its regulations in effect on December 31, 2010.
- 18) Sets forth standards for supervised experience gained to meet the certification and licensure requirements of this bill. (HSC §11975.55)
- 19) 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))
- 20) 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 State 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.

21) 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)

22) 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.

23) 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)

24) Requires the Department to deny or revoke a license, certification or registration if the person meets one or more of the following:

- a. Has been convicted of five or more criminal offenses within a 30-month period ending two years or less prior to the date of the Department's determination;
- b. Is required to register as a sex offender; or,
- c. Has been convicted of a violent felony within three years prior to the date of the Department's determination.

- 25) 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)
- 26) Requires all applicants for licensure, certification or registration pursuant to this Act to consent to a state and federal level criminal offender record information search. (HSC §11976.45(a)and (b))
- 27) 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))
- 28) 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)
- 29) 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)
- 30) 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)
- 31) 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 of 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) **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.

7) Grandparenting provision for LAODC's. This bill provides that from January 1, 2011 through December 31, 2013 the Department must issue a LAODC/Previously Licensed Certified Counselor license to each person who meets the following requirements:

- The individual was certified as a counselor on December 31, 2010 in accordance with the Department regulations in effect at that time;
- Submits to a state and federal level criminal offender record information search and passes the background check as specified in the bill (see discussion on criminal convictions below); and,
- Possesses an advanced certification issued by one of the certifying organizations recognized by the Department, which certification the Department determines by regulation makes the holder eligible for licensure as an LAODC.

This grandparenting provision would allow individuals to provide services as an LAODC in a private practice setting without possessing a degree from a post-secondary educational institution.

8) Process for Appealing an Adverse Decision. This bill specifies that a person who has applied for or received a license, certification or registration has the right to appeal an adverse decision of the Department with regard to his or her application, license, certificate, or registration. Unless the department specifies different due process provisions in regulation, this appeal must be determined in accordance with the adjudication provisions of the Administrative Procedures Act (APA). This provision would require the Department to conduct an appeal through the APA process, not just for a denial, suspension or revocation of a license or application, but for any adverse decision made by the Department. For instance, if the Department notifies an applicant of deficiencies related to his or her application, under this bill, the APA process would be triggered, which could include a formal hearing with an Administrative Law Judge.

9) Criminal Convictions. This bill requires the Department to deny or revoke a license, certification or registration to a person who has been convicted of five or more criminal offenses within a 30-month period ending two years or less prior to the date of the Department's determination. Similarly, the Department must deny or revoke a license, certification or registration if an individual has been convicted of a violent felony within three years prior to the date of the Department's determination.

The bill only specifies parameters for a violent felony conviction, and therefore, all other convictions (except one that requires registration as a sex offender) would not necessarily preclude licensure pursuant to this bill. An individual could have up to four related convictions in a 30 month period preceding application and still be eligible for licensure. Additionally, an applicant could have more than five convictions if those convictions happened over a period of time more than 30 months, and/or if those convictions were more than two years prior to the time of the Department's determination.

Additionally, this bill allows the Department to establish additional criteria to implement this provision of the bill including, standards, exemptions and terms of rehabilitation.

10) Support and Opposition.

Support: Department of Alcohol and Drug Programs (sponsor)
The American Federation of State, County and
Municipal Employees, Local 260 (if amended)
California Association of Alcoholism and Drug Abuse Counselors
(if amended)
California Association of Alcohol and Drug Program Executives
County Alcohol and Drug Program Administrators
Association of California
Drug Policy Alliance Network

Opposition: A. K. Bean Foundation
California Association of Addiction Recovery Resources
California Association for Alcohol/Drug Educators
(unless amended)
California Association of Marriage and Family
Therapists (unless amended)
California Psychological Association
California Psychiatric Association
California Therapeutic Communities
Northeast Valley Hospital Association
San Francisco Women's Rehabilitation Foundation
Numerous individuals

11) History

2009

May 1	Set for hearing May 11.
Apr. 30	From committee: Do pass, but first be re-referred to Com. on APPR.(Ayes 7. Noes 2. Page 730.) Re-referred to Com. APR.
Apr. 22	From committee with author's amendments. Read second time. Amended. Re-referred to Com. on HEALTH.
Apr. 17	Set for hearing April 29.
Apr. 15	Set, second hearing. Hearing canceled at the request of author
Apr. 3	Set for hearing April 22.
Apr. 1	Set, first hearing. Hearing canceled at the request of author.
Mar. 25	Set for hearing April 15.
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.

AMENDED IN SENATE APRIL 22, 2009

SENATE BILL

No. 707

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 amended, 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, *and would authorize the department to commence issuing these licenses, registrations, and certificates on January 1, 2011.* 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~~ *Section 11975.35 or 11975.36* to practice
18 alcohol and drug counseling under clinical supervision in a program
19 licensed or certified by the 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~~ *Section 11975.37*
23 *or 11975.38* to practice alcohol and drug counseling in a program
24 licensed or certified by the 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~~ *Section*
28 *11975.39 or 11975.40* to practice alcohol and drug counseling in

1 a program licensed or certified by the department under this
2 division, and who may provide clinical supervision to registrants,
3 CAODCs, and CAODC-As.

4 (d) “Licensed Alcohol and Other Drug Counselor” or “LAODC”
5 means a person licensed by the department pursuant to Section
6 ~~11975.40~~ 11975.41 or 11975.42 to practice alcohol and other drug
7 counseling, and who may provide clinical supervision to any other
8 person licensed, certified, or registered under this part and who
9 may maintain an independent counseling practice.

10 (e) “Clinical supervision” means the ongoing process in which
11 the supervisor participates with one or more supervisees to ensure
12 ~~quality care~~ *high quality service delivery across domains of*
13 *counselor development, professional and ethical standards,*
14 *program development, quality assurance, performance evaluation,*
15 *and administration,* as described in “Competencies for Substance
16 Abuse Treatment Clinical Supervisors,” Technical Assistance
17 Publication Series No. 21-A, 2007, published by the United States
18 Department of Health and Human Services, Substance Abuse and
19 Mental Health Services Administration Center for Substance Abuse
20 Treatment, or other sources as the department may specify by
21 regulation.

22 (f) “Advertise” includes, but is not limited to, the issuance of
23 any card, sign, or device to any person, or the causing, permitting,
24 or allowing of any sign or marking on or in any building or
25 structure, or in any newspaper or magazine or in any directory, or
26 any printed matter, with or without any limiting qualification. It
27 also includes business solicitations communicated by radio or
28 television broadcasting, the Internet, or any other electronic
29 medium.

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

35 (h) “Supervision” means responsibility for, and control of, the
36 quality of alcohol and other drug counseling services being
37 provided. Consultation or peer discussion shall not be considered
38 to be supervision. “Supervisee” means a registrant or certified or
39 licensed counselor under this part, as the case may be, who is

1 seeking to meet the supervised experience requirements of this
2 part.

3
4 CHAPTER 2. ADMINISTRATION

5
6 11975.20. (a) The department shall administer and enforce
7 this part.

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

11 11975.25. In order to carry out the provisions of this part, the
12 department shall do, but shall not be limited to, all of the following:

13 (a) Adopt rules and regulations as necessary to administer and
14 enforce this part. The adoption, amendment, and repeal of those
15 rules and regulations shall be made in accordance with the
16 rulemaking provisions of the Administrative Procedure Act
17 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
18 Division 3 of Title 2 of the Government Code).

19 (b) Develop standards for ~~certification~~ *registration, certification,*
20 and licensure of alcohol and other drug counselors, including those
21 persons presently certified pursuant to regulations adopted by the
22 department so that they have an opportunity for certification or
23 licensure under this part with appropriate credit for the education,
24 training, and experience obtained prior to the department's
25 implementation of this part. The department shall establish
26 standards for multiple levels of alcohol and other drug counselors
27 and may establish subspecialties with distinct requirements.

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

31 (d) Take disciplinary action against counselors where
32 appropriate, including reprimand or probation, suspension, or
33 revocation of the license, certificate, or registration, issuance of
34 administrative citations, or imposition of administrative fines not
35 to exceed five thousand dollars (\$5,000), or any combination of
36 these.

37 (e) Establish continuing education requirements.

38 (f) Establish procedures for the receipt, investigation, and
39 resolution of complaints.

1 (g) Establish criteria to determine whether the curriculum of an
2 educational institution satisfies the requirements imposed by this
3 part.

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

6 (i) Establish reinstatement procedures for an expired or revoked
7 certificate or license.

8 (j) Establish registration and supervision requirements for
9 registrants, including those persons presently registered pursuant
10 to regulations adopted by the department, so that they have an
11 opportunity for registration, certification, and licensure under this
12 part with appropriate credit for the education, training, and
13 experience obtained prior to the department’s implementation of
14 this part.

15 (k) Develop or adopt one or more examinations for
16 administering to prospective *certificants and* licensees. The test
17 may be administered by the department or by any public or private
18 entity selected by the department.

19 (l) Maintain a database of certified and licensed counselors and
20 registrants, including the individual’s status, any public record of
21 discipline, and other information as the department may require.

22

23 CHAPTER 3. LICENSING AND CERTIFICATION

24

25 11975.30. (a) The department shall ~~provisionally certify as a~~
26 ~~Certified Alcohol and Other Drug Counselor~~ *certify or license, at*
27 *the appropriate level specified in Section 11975.36, 11975.38,*
28 *11975.40, or 11975.42, as applicable, each person who the*
29 *department determines was certified as a counselor on January 1,*
30 *December 31, 2010, in accordance with regulations of the*
31 *department in effect immediately prior to January 1, 2010 in effect*
32 *on that date.*

33 (b) ~~Provisional certification~~ *Certification or licensure provided*
34 *pursuant to this section shall be in force for at least two, but not*
35 *more than four, years, as the department may determine by*
36 *regulation and shall, thereafter, be renewable in the same manner*
37 *as any other certification or licensure pursuant to this part.*

38 (c) ~~The department may withdraw or condition a provisional~~
39 ~~certification for any reason for which it could~~

1 (c) *The registration, certification, or licensure issued pursuant*
2 *to this section shall be subject to all of the same actions to deny,*
3 *suspend, revoke, or condition-a any other registration, certificate,*
4 *or license under this part.*

5 ~~(d) The department may specify, by regulations, conditions~~
6 ~~under which eligible persons may be provisionally certified at the~~
7 ~~level of Certified Alcohol and Other Drug Counselor-Advanced~~
8 ~~or Certified Alcohol and Other Drug Counselor-Clinical~~
9 ~~Supervisor.~~

10 (e)
11 (d) The department shall specify by regulation the conditions
12 under which persons registered to become certified, pursuant to
13 the department's regulations in effect immediately prior to January
14 ~~1, on December 31, 2010,~~ may be eligible to be registered or
15 certified under this part and receive appropriate credit for
16 education, supervised experience, and work experience previously
17 completed.

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

21 ~~11975.35. (a) Commencing January 1, 2011, the department~~
22 ~~shall issue CAODC certificates to a person who meets all of the~~
23 ~~following requirements:~~

24 ~~(1) Meets one or more of the following:~~

25 ~~(A) Completes 350 hours of education as specified in Section~~
26 ~~11975.45 and possesses a high school diploma or GED.~~

27 ~~(B) Possesses an earned Associate of Arts, Associate of Science~~
28 ~~in alcohol and drug counseling, or other major or an equivalent~~
29 ~~degree recognized by the department by regulation, from an~~
30 ~~institution of higher learning accredited by the Western Association~~
31 ~~of Schools and Colleges or an equivalent regional accrediting~~
32 ~~agency approved by the United States Department of Education.~~

33 ~~(2) Passes the test specified in Section 11975.50.~~

34 ~~(3) Completes 250 hours of supervised experience as specified~~
35 ~~in Section 11975.55.~~

36 ~~(4) Completes 2,080 hours of work experience as specified in~~
37 ~~Section 11975.60.~~

38 ~~(5) Submits to a state and federal level criminal offender record~~
39 ~~information search and passes both background checks as specified~~
40 ~~in Section 11976.10.~~

- 1 ~~(6) Pays the required fees as set by the department.~~
- 2 ~~(7) Completes the application for a certificate and satisfies all~~
- 3 ~~other requirements of this part for certification as a CAODC.~~
- 4 ~~(b) Commencing January 1, 2011, the department shall issue~~
- 5 ~~CAODC-A certificates to a person who meets all of the following~~
- 6 ~~requirements:~~
 - 7 ~~(1) Meets either of the following:~~
 - 8 ~~(A) Possesses an earned Bachelor of Arts, Bachelor of Science~~
 - 9 ~~in alcohol and drug counseling, or other major or an equivalent~~
 - 10 ~~degree recognized by the department by regulation, from an~~
 - 11 ~~institution of higher learning accredited by the Western Association~~
 - 12 ~~of Schools and Colleges or an equivalent regional accrediting~~
 - 13 ~~agency approved by the United States Department of Education.~~
 - 14 ~~(B) Completes 10,000 hours of work experience as specified in~~
 - 15 ~~Section 11975.60, within a period not exceeding 10 years prior to~~
 - 16 ~~the date the application for certification was filed and possesses a~~
 - 17 ~~high school diploma or GED.~~
 - 18 ~~(2) Meets all of the requirements of paragraphs (2) to (6),~~
 - 19 ~~inclusive, of subdivision (a), plus both of the following additional~~
 - 20 ~~requirements:~~
 - 21 ~~(A) Completes an additional 150 hours of supervised experience~~
 - 22 ~~as specified in Section 11975.55.~~
 - 23 ~~(B) Completes the application for a certificate and satisfies all~~
 - 24 ~~other requirements of this part for certification as a CAODC-A.~~
- 25 ~~(c) Commencing January 1, 2011, the department shall issue~~
- 26 ~~CAODC-CS certificates to a person who meets all of the following~~
- 27 ~~requirements:~~
 - 28 ~~(1) Meets both of the following:~~
 - 29 ~~(A) Possesses an earned Bachelor of Arts, Bachelor of Science~~
 - 30 ~~in alcohol and drug counseling, or other major or an equivalent~~
 - 31 ~~degree recognized by the department by regulation, from an~~
 - 32 ~~institution of higher learning accredited by the Western Association~~
 - 33 ~~of Schools and Colleges or an equivalent regional accrediting~~
 - 34 ~~agency approved by the United States Department of Education.~~
 - 35 ~~(B) Completes a course of education as specified in paragraph~~
 - 36 ~~(3) of subdivision (b) of Section 11976.50 specifically directed to~~
 - 37 ~~the competencies of clinical supervision.~~
 - 38 ~~(2) Meets all of the requirements of subparagraph (A) of~~
 - 39 ~~paragraph (2) of subdivision (b), plus both of the following~~
 - 40 ~~additional requirements:~~

1 ~~(A) Completes an additional 150 hours of supervised experience~~
2 ~~as specified in Section 11975.55.~~

3 ~~(B) Completes the application for a certificate and satisfies all~~
4 ~~other requirements of this part for certification as a CAODC-CS,~~
5 ~~including any additional requirements specified by the department~~
6 ~~related to clinical supervision.~~

7 ~~(e) The department shall not issue a registration, certification,~~
8 ~~or license pursuant to this section unless a complete application~~
9 ~~is received by December 31, 2013.~~

10 11975.35. Commencing January 1, 2011, the department shall
11 issue a Certified Alcohol and Other Drug Counselor (CAODC)
12 certificate to each person who meets all of the following
13 requirements:

14 (a) Meets either of the following:

15 (1) Completes 350 hours of education as specified in Section
16 11975.45 and possesses a high school diploma or GED.

17 (2) Possesses an earned Associate of Arts, Associate of Science
18 in alcohol and drug counseling, or other major or an equivalent
19 degree recognized by the department by regulation, from an
20 institution of higher learning accredited by the Western Association
21 of Schools and Colleges or an equivalent regional accrediting
22 agency approved by the United States Department of Education.

23 (b) Passes the test specified in Section 11975.50.

24 (c) Completes 250 hours of supervised experience as specified
25 in Section 11975.55.

26 (d) Completes 2,080 hours of work experience as specified in
27 Section 11975.60.

28 (e) Submits to a state and federal level criminal offender record
29 information search and passes both background checks as specified
30 in Section 11976.45.

31 (f) Pays the required fees as set by the department.

32 (g) Completes the application for a certificate and satisfies all
33 other requirements of this part for certification as a CAODC.

34 11975.36. Commencing January 1, 2011, and ceasing with the
35 disposition of all complete applications actually received by the
36 department by December 31, 2013, the department shall issue a
37 Certified Alcohol and Other Drug Counselor (CAODC)/ Previously
38 Certified certificate pursuant to Section 11975.30 to each person
39 who the department determines was certified as a counselor on
40 December 31, 2010, in accordance with regulations of the

1 department in effect on that date, and who meets all of the
2 following requirements:

3 (a) Submits to a state and federal level criminal offender record
4 information search not later than June 30, 2011, and passes both
5 background checks as specified in Section 11976.45.

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

7 (c) Completes the application for a certificate.

8 11975.37. Commencing January 1, 2011, the department shall
9 issue a Certified Alcohol and Other Drug Counselor-Advanced
10 (CAODC-A) certificate to each person who meets all of the
11 following requirements:

12 (a) Meets either of the following:

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

19 (2) Completes 10,000 hours of work experience as specified in
20 Section 11975.60, within a period not exceeding 10 years prior to
21 the date the application for certification was filed and possesses
22 a high school diploma or GED.

23 (b) Passes the test specified in Section 11975.50.

24 (c) Completes 400 hours of supervised experience as specified
25 in Section 11975.55. Up to 250 hours credited to obtain a CAODC
26 certificate may be applied toward this requirement.

27 (d) Completes 2,080 hours of work experience as specified in
28 Section 11975.60.

29 (e) Submits to a state and federal level criminal offender record
30 information search and passes both background checks as specified
31 in Section 11976.45.

32 (f) Pays the required fees as set by the department.

33 (g) Completes the application for a certificate and satisfies all
34 other requirements of this part for certification as a CAODC-A.

35 11975.38. Commencing January 1, 2011, and ceasing with the
36 disposition of all complete applications actually received by the
37 department by December 31, 2013, the department shall issue a
38 Certified Alcohol and Other Drug Counselor-Advanced
39 (CAODC-A)/ Previously Certified certificate pursuant to Section
40 11975.30 to each person who the department determines was

1 certified as a counselor on December 31, 2010, in accordance
2 with regulations of the department in effect on that date, and who
3 meets all of the following requirements:

4 (a) Submits to a state and federal level criminal offender record
5 information search not later than June 30, 2011, and passes both
6 background checks as specified in Section 11976.45.

7 (b) Pays the required fees as set by the department.

8 (c) Completes the application for a certificate.

9 (d) Prior to January 1, 2011, meets the requirements of Section
10 11975.37, or possesses an advanced certification issued by one of
11 the certifying organizations recognized by the department under
12 its regulations in effect on December 31, 2010, which certification
13 the department determines by regulation makes the holder eligible
14 for certification at the CAODC-A level.

15 11975.39. Commencing January 1, 2011, the department shall
16 issue a Certified Alcohol and Other Drug Counselor-Clinical
17 Supervisor (CAODC-CS) certificate to each person who meets all
18 of the following requirements:

19 (a) Meets both of the following:

20 (1) Possesses an earned Bachelor of Arts, Bachelor of Science
21 in alcohol and drug counseling, or other major or an equivalent
22 degree recognized by the department by regulation, from an
23 institution of higher learning accredited by the Western Association
24 of Schools and Colleges or an equivalent regional accrediting
25 agency approved by the United States Department of Education.

26 (2) Completes 40 hours of continuing education specifically
27 directed to the competencies of clinical supervision, as approved
28 by the department.

29 (b) Passes the test specified in Section 11975.50.

30 (c) Completes 550 hours of supervised experience as specified
31 in Section 11975.55. Up to 400 hours credited to obtain a
32 CAODC-A certificate, that may include up to 250 hours credited
33 to obtain a CAODC certificate, may be applied toward this
34 requirement.

35 (d) Completes 2,080 hours of work experience as specified in
36 Section 11975.60.

37 (e) Submits to a state and federal level criminal offender record
38 information search and passes both background checks as specified
39 in Section 11976.45.

40 (f) Pays the required fees as set by the department.

1 (g) Completes the application for a certificate and satisfies all
2 other requirements of this part for certification as a CAODC-CS,
3 including any additional requirements specified by the department
4 related to clinical supervision.

5 11975.40. Commencing January 1, 2011, and ceasing with the
6 disposition of all complete applications actually received by the
7 department by December 31, 2013, the department shall issue a
8 Certified Alcohol and Other Drug Counselor-Clinical Supervisor
9 (CAODC-CS)/Previously Certified certificate pursuant to Section
10 11975.30 to each person who the department determines was
11 certified as a counselor on December 31, 2010, in accordance
12 with regulations of the department in effect on that date, and who
13 meets all of the following requirements:

14 (a) Submits to a state and federal level criminal offender record
15 information search not later than June 30, 2011, and passes both
16 background checks as specified in Section 11976.45.

17 (b) Pays the required fees as set by the department.

18 (c) Completes the application for a certificate.

19 (d) Prior to January 1, 2011, complies with all of the following:

20 (1) Meets the requirements of Section 11975.39.

21 (2) Possesses an advanced certification issued by one of the
22 certifying organizations recognized by the department under its
23 regulations in effect on December 31, 2010, which certification
24 the department determines by regulation makes the holder eligible
25 for certification at the CAODC-CS level.

26 (3) (A) Completes 10,000 hours of work experience in clinical
27 supervision as specified in Section 11975.60, within a period not
28 exceeding 10 years prior to the date the application for certification
29 was filed.

30 (B) Completes 40 hours of continuing education specifically
31 directed to the competencies of clinical supervision, as approved
32 by the department.

33 ~~11975.40.~~

34 11975.41. Commencing January 1, 2011, the department shall
35 issue an ~~LAODC~~ Licensed Alcohol and Other Drug Counselor
36 (LAODC) license to a person who meets all of the following
37 requirements:

38 (a) Possesses an earned Master of Arts, Master of ~~Science~~
39 Science, or Doctorate degree in alcohol and drug counseling,
40 psychology, or social work, or other major or an equivalent degree

1 recognized by the department by regulation, from an institution
 2 of higher learning accredited by the Western Association of
 3 Schools and Colleges or an equivalent regional accrediting agency
 4 approved by the United States Department of Education.

5 (b) Completes a course of education as specified in paragraph
 6 (3) of subdivision (b) of Section 11976.50 specifically directed to
 7 the competencies of clinical supervision.

8 (c) Passes the test specified in Section 11975.50.

9 (d) Completes 2,000 hours of supervised experience as specified
 10 in Section 11975.55.

11 (e) Completes 6,000 hours of work experience as specified in
 12 Section 11975.60.

13 (f) Submits to a state and federal level criminal offender record
 14 information search and passes both background checks as specified
 15 in Section 11976.45.

16 (g) Pays the required fees as set by the department.

17 (h) Completes the application for a license and satisfies all other
 18 requirements of this part for licensure as an LAODC.

19 *11975.42. Commencing January 1, 2011, and ceasing with the*
 20 *disposition of all complete applications actually received by the*
 21 *department by December 31, 2013, the department shall issue a*
 22 *Licensed Alcohol and Other Drug Counselor (LAODC)/ Previously*
 23 *Certified Counselor license pursuant to Section 11975.30 to each*
 24 *person who the department determines was certified as a counselor*
 25 *on December 31, 2010, in accordance with regulations of the*
 26 *department in effect on that date, and who meets all of the*
 27 *following requirements:*

28 (a) *Submits to a state and federal level criminal offender record*
 29 *information search not later than June 30, 2011, and passes both*
 30 *background checks as specified in Section 11976.45.*

31 (b) *Pays the required fees as set by the department.*

32 (c) *Completes the application for a certificate.*

33 (d) *Prior to January 1, 2011, meets the requirements of Section*
 34 *11975.41, or possesses an advanced certification issued by one of*
 35 *the certifying organizations recognized by the department under*
 36 *its regulations in effect on December 31, 2010, which certification*
 37 *the department determines by regulation makes the holder eligible*
 38 *for licensure as an LAODC.*

39 ~~11975.45. The education required in Sections 11975.35 and~~
 40 ~~11975.40 educational qualifications required for registration,~~

1 *certification, or licensure pursuant to this part* shall meet both of
2 the following requirements:

3 (a) The curriculum shall include all of the following:

4 (1) *For all counselors, “Addiction Counseling Competencies,”*
5 *Technical Assistance Publication Series No. 21, 2006, published*
6 *by the United States Department of Health and Human Services,*
7 *Substance Abuse and Mental Health Services Administration,*
8 *Center for Substance Abuse Treatment.*

9 (2) *For counselors at the CAODC-CS or LAODC level,*
10 *“Competencies for Substance Abuse Treatment Clinical*
11 *Supervisors,” Technical Assistance Publication Series No. 21-A,*
12 *2007, published by the United States Department of Health and*
13 *Human Services, Substance Abuse and Mental Health Services*
14 *Administration, Center for Substance Abuse Treatment.*

15 (3) Other materials, sources, and requirements in addition to,
16 or in lieu of, the above, including, but not limited to, more specific
17 subject matter requirements, as the department may specify by
18 regulation.

19 (b) Education provided by ~~either~~ *any* of the following, *as*
20 *applicable:*

21 (1) An institution of higher learning accredited by the Western
22 Association of Schools and Colleges or an equivalent regional
23 accrediting agency approved by the United States Department of
24 Education.

25 (2) Other providers as approved by the department, whether
26 individually, through accreditation by another entity recognized
27 by the department, or otherwise as the department may specify by
28 regulation.

29 (3) *An education provider accredited in the alcohol and other*
30 *drug counseling field by the National Commission for Certifying*
31 *Agencies, provided that any education delivered on or after*
32 *January 1, 2011, shall be recognized by the department only if it*
33 *has been validated to effectively cover the curriculum specified*
34 *pursuant to this part.*

35 ~~11975.50. The test required for certification under Sections~~
36 ~~11975.35 and 11975.40 shall be any, or all, of the following as~~
37 ~~determined by the department:~~

38 ~~(a) The written examination offered by the International~~
39 ~~Certification & Reciprocity Consortium/Alcohol & Other Drug~~
40 ~~Abuse, Inc., an organization comprised of domestic and~~

1 international organizations involved in credentialing and licensing
2 alcohol and other drug counselors.

3 ~~(b) Alternate or additional test or tests as the department may~~
4 ~~develop.~~

5 ~~(c) Alternate or additional test or tests as the department may~~
6 ~~recognize and approve, whether individually, through accreditation~~
7 ~~by another entity recognized by the department, or otherwise as~~
8 ~~the department may specify by regulation.~~

9 *11975.50. The department shall develop or recognize a test*
10 *for each level of certification or licensure provided in this part. A*
11 *test recognized by the department shall meet all of the following*
12 *criteria, as determined by the department:*

- 13 *(a) Nationally recognized.*
- 14 *(b) Validated to cover the curriculum specified pursuant to this*
15 *part.*
- 16 *(c) Administered at a frequency and under conditions providing*
17 *reasonable access and security.*

18 *11975.55. The supervised experience required for certification*
19 *under Sections 11975.35 and 11975.40 by this part shall meet all*
20 *of the following criteria:*

- 21 *(a) The required supervised experience may be gained under*
22 *the clinical supervision of a CAODC-CS, an LAODC, or another*
23 *licensed mental health professional specified by the department*
24 *by regulation. This experience shall consist of all of the following:*
25 *(1) A minimum of 70 percent of the required hours shall be*
26 *face-to-face individual or group counseling provided to clients in*
27 *the context of alcohol and other drug services, unless the*
28 *department modifies this requirement by regulation.*
29 *(2) A maximum of 30 percent of the required hours may be in*
30 *case management, client-centered advocacy, consultation,*
31 *evaluation, and research, unless the department modifies this*
32 *requirement by regulation.*
33 *(3) The required hours of supervised experience shall be*
34 *obtained over a period of not less than one year and shall have*
35 *been gained within the six years immediately preceding the date*
36 *on which the application for certification or licensure was filed.*
37 *(4) Experience shall not be credited for more than 40 hours in*
38 *any week.*

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

4 (2) A supervisee shall receive an average of at least one hour
5 of direct supervisor contact for every week in which more than 10
6 hours of face-to-face counseling is performed in each setting where
7 experience is gained. No more than five hours of supervision,
8 whether individual or group, shall be credited during any single
9 week. For purposes of this section, “one hour of direct supervisor
10 contact” means one hour of face-to-face contact on an individual
11 basis or two hours of face-to-face contact in a group, of not more
12 than eight persons receiving supervision, addressing the substance
13 of the supervisory plan required in subdivision (c).

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

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

23 (1) Lawfully and regularly provides alcohol and other drug
24 counseling.

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

29 (e) Experience shall not be gained ~~until the applicant has been~~
30 ~~registered as a supervisee.~~ *prior to becoming a registrant.*

31 (f) A supervisee may be either a paid employee or a volunteer.
32 Employers are encouraged to provide fair remuneration to
33 supervisees.

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

38 (h) A supervisee may receive supervision from a person not
39 employed by the supervisee’s employer if that person has signed
40 a written agreement with the employer to take supervisory

1 responsibility for the supervisee’s alcohol and other drug
 2 counseling.

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

6 (j) The department may limit, by regulation, the number of
 7 registrants that any one supervisor may supervise, the number of
 8 registrants that may be supervised in any given program or setting,
 9 and the proportion of the workforce in any given program or setting
 10 which may be comprised of registrants, or any of these.

11 11975.60. The supervised work experience required by Sections
 12 ~~11975.35 and 11975.40~~ this part shall meet all of the following
 13 criteria:

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

16 (b) No hours of experience may be gained more than six years
 17 prior to the date the application for registration, certification, or
 18 licensure, as applicable, was filed, except as ~~provided in~~
 19 ~~subparagraph (B) of paragraph (1) of subdivision (b) of Section~~
 20 ~~11975.35.~~

21 ~~(c) All work experience shall be at all times under the~~
 22 ~~supervision of a person authorized to provide clinical supervision~~
 23 ~~pursuant to this part, who shall be responsible for ensuring that~~
 24 ~~the extent, kind, and quality of counseling performed is consistent~~
 25 ~~with the training and experience of the person being supervised,~~
 26 ~~and who shall be responsible to the department for compliance~~
 27 ~~with all laws, rules, and regulations governing the practice of~~
 28 ~~alcohol and other drug counseling. Supervised experience shall be~~
 29 ~~gained either as an employee or as a volunteer. Experience shall~~
 30 ~~not be gained as an independent contractor. specifically otherwise~~
 31 ~~provided in this part.~~

32 (c) *Work experience shall not be gained as an independent*
 33 *contractor.*

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

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

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

3 (1) Lawfully and regularly provides alcohol and other drug
4 counseling.

5 (2) Provides oversight to ensure that the registrant's work at the
6 setting meets the requirements set forth in this part *and is within*
7 *the scope of practice for the profession as defined in Section*
8 *11975.75.*

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

12 (e) Except to the extent that the department provides otherwise
13 by regulation, all persons shall register with the department in
14 order to be credited for the work experience necessary for licensure
15 or certification.

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

18 11975.65. Nothing in this part shall be construed to constrict,
19 limit, or withdraw the Medical Practice Act (Chapter 5
20 (commencing with Section 2000)), the Nursing Practice Act
21 (Chapter 6 (commencing with Section 2700)), the Psychology
22 Licensing Act (Chapter 6.6 (commencing with Section 2900)), the
23 Marriage and Family Therapist Act (Chapter 13 (commencing
24 with Section 4980)), or the Clinical Social Worker Practice Act
25 (Chapter 14 (commencing with Section 4991)) of Division 2 of
26 the Business and Professions Code.

27 11975.70. This part shall not apply to any of the following,
28 provided that this exception shall not preclude the department from
29 considering any conduct in any setting in its determination of
30 fitness for registration, certification, or licensure or in any
31 disciplinary matter:

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

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

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

37 (3) As an employee or volunteer of an agency of the United
38 States government.

39 (b) A person who is an unpaid member of a peer or self-help
40 group who performs peer group or self-help activities if the person

1 does not use a title stating or implying that he or she is a licensed
2 alcohol and drug counselor or any other designation listed in
3 Section 11975.85.

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

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

9 11975.75. (a) An individual licensed or certified under this
10 part may engage in the practice of alcohol and drug counseling.
11 For purposes of this part, the “practice of alcohol and drug
12 counseling” means performing any of the following services for
13 the purpose of treating alcohol and drug abuse:

14 (1) Initial intake.

15 (2) Assessment.

16 (3) Orientation.

17 (4) Treatment planning.

18 (5) Alcohol and drug counseling, including individual, group,
19 and significant others.

20 (6) Case management.

21 (7) Crisis intervention.

22 (8) Client education.

23 (9) Referral.

24 (10) Reports and recordkeeping.

25 (11) Consultation with other professionals with regard to client
26 treatment or services.

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

30 11975.80. The department shall issue a license or certification
31 to each applicant meeting the requirements of this part, which
32 license or certification permits the holder to engage in alcohol and
33 other drug counseling as defined in Section 11975.75, entitles the
34 holder to use the title of licensed or certified alcohol and other
35 drug counselor, as applicable, and authorizes the holder to hold
36 himself or herself out as qualified to perform the functions
37 delineated by this part, subject to any limitations relating to the
38 level of the license or certification or other conditions that may be
39 imposed by the department. The form and content of the license
40 or certification shall be determined by the department.

1 11975.85. A person who has received a certificate or license
2 under this part may use the title “Certified Alcohol and Other Drug
3 Counselor” or “CAODC,” “Certified Alcohol and Other Drug
4 Counselor – Advanced” or ”CAODC-A,” “Certified Alcohol and
5 Other Drug Counselor – Clinical Supervisor” or “CAODC-CS,”
6 or “Licensed Alcohol and Other Drug Counselor” or “LAODC,”
7 in accordance with the type of certificate or license possessed.
8 Every person who styles himself or herself or who holds himself
9 or herself out to be a Certified Alcohol and Other Drug Counselor,
10 Certified Alcohol and Other Drug Counselor—Advanced, Certified
11 Alcohol and other Drug Counselor-Clinical Supervisor, or Licensed
12 Alcohol and Other Drug Counselor without holding a license or
13 certification in good standing under this part, is guilty of a
14 misdemeanor.

15 11975.90. It is unlawful for a person to engage in the practice
16 of alcohol and other drug counseling unless at the time of so doing
17 the person holds a valid, unexpired, and unrevoked certificate or
18 license under this part.

19 11975.95. The department may deny, revoke, suspend, or
20 impose conditions upon a license, certification, or registration for
21 unprofessional conduct. Unprofessional conduct, includes, but is
22 not limited to, any of the following:

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

25 (b) ~~Securing a license~~ *license, certification, or registration by*
26 *fraud, deceit, or misrepresentation on any application submitted*
27 *to the department, whether engaged in by an applicant for a license*
28 *or registration, or by a licensee in support of any application for*
29 ~~license or registration.~~ *license, certification, or registration, or*
30 *in support of any application by another.*

31 (c) Administering to himself or herself any controlled substance
32 as defined in Section 4021 of the Business and Professions Code,
33 or using any of the dangerous drugs or devices specified in Section
34 4022 of the Business and Professions Code or using any alcoholic
35 beverage to the extent, or in a manner, as to be dangerous or
36 injurious to the person applying for a ~~registration or license or~~
37 ~~holding a registration or license~~ *license, certification, or*
38 *registration, or holding a license, certification, or registration*
39 under this part, or to any other person, or to the public, or, to the
40 extent that the use impairs the ability of the person applying for

1 or holding a ~~registration or license~~, *license, certification, or*
2 *registration*, to conduct with safety to the public the counseling
3 authorized by ~~the registration or license~~ *this part*. The department
4 may deny an application for a ~~registration or license~~ or ~~revoke the~~
5 ~~license or registration~~ *license, certification, or registration, or may*
6 *revoke the license, certification, or registration* of any person who
7 uses or offers to use a controlled substance as defined in Section
8 4021 of the Business and Professions Code, a dangerous drug or
9 device specified in Section 4022 of the Business and Professions
10 Code, or alcohol in the course of performing alcohol and other
11 drug counseling. This provision does not apply to any person also
12 licensed as a physician and surgeon under Chapter 5 (commencing
13 with Section 2000) of the Business and Professions Code or the
14 Osteopathic Act who lawfully prescribes drugs to a patient under
15 his or her care.

16 (d) Gross negligence or incompetence in the performance of
17 alcohol and other drug counseling.

18 (e) Violating, attempting to violate, or conspiring to violate this
19 part or any regulation adopted by the department.

20 (f) Misrepresentation as to the type or status of a license,
21 certification, or registration held by the person, or otherwise
22 misrepresenting or permitting misrepresentation of his or her
23 education, professional qualifications, or professional affiliations
24 to any person or entity.

25 (g) Impersonation of another by any counselor or registrant, or
26 applicant for a ~~license~~ *license, certification, or registration*, or, in
27 the case of a counselor, allowing any other person to use his or
28 her ~~license~~ *license, certification, or registration*.

29 (h) Aiding or abetting any unlicensed, uncertified, or
30 unregistered person to engage in conduct for which a license,
31 certification, or registration is required under this part.

32 (i) Intentionally or recklessly causing physical or emotional
33 harm to any client.

34 (j) The commission of any dishonest, corrupt, or fraudulent act
35 substantially related to the qualifications, functions, or duties of a
36 counselor or registrant.

37 ~~Engaging~~ *Soliciting or engaging* in sexual relations with a
38 client or with a former client within two years from the termination
39 date of ~~therapy with the client, soliciting sexual relations with a~~
40 ~~client, or committing an act of sexual abuse, or sexual misconduct~~

1 with a client, or committing an act punishable as a sexually related
2 crime, if that act or solicitation is substantially related to the
3 qualifications, functions, or duties of an alcohol and other drug
4 counselor. *treatment.*

5 (l) *Engaging in a social or business relationship for personal*
6 *gain with a current client, a current client's family member, or*
7 *other persons significant to a client.*

8 ~~(t)~~

9 (m) Performing, or holding oneself out as being able to perform,
10 or offering to perform, or permitting any licensee under supervision
11 to perform any professional services beyond the scope of the
12 license authorized by this part.

13 ~~(m)~~

14 (n) Failure to maintain confidentiality, except as otherwise
15 required or permitted by law, including, but not limited to, Part 2
16 (commencing with Section 2.1) of Subchapter A of Chapter 1 of
17 Title 42 of the Code of Federal Regulations.

18 ~~(n)~~

19 (o) Prior to the commencement of treatment, failing to disclose
20 to the client or prospective client the fee to be charged for the
21 professional services, or the basis upon which that fee will be
22 computed.

23 ~~(o)~~

24 (p) Paying, accepting, or soliciting any consideration,
25 compensation, or remuneration, whether monetary or otherwise,
26 for the referral of professional clients. All consideration,
27 compensation, or remuneration shall be in relation to professional
28 counseling services actually provided by the licensee. Nothing in
29 this subdivision shall prevent collaboration among two or more
30 licensees in a case or cases. However, no fee shall be charged for
31 that collaboration, except when disclosure of the fee has been made
32 in compliance with subdivision ~~(n)~~ (o).

33 ~~(p)~~

34 (q) Advertising or using a name in a manner that is false,
35 misleading, or deceptive.

36 ~~(q)~~

37 (r) Conduct in the supervision of any individual licensed,
38 certified, or registered counselor that violates this part or rules or
39 regulations adopted by the department.

40 ~~(r)~~

1 (s) Failure to keep records consistent with sound professional
2 judgment, the standards of the profession, and the nature of the
3 services being rendered.

4 (~~s~~)

5 (t) Failure to comply with the child abuse reporting requirements
6 of Section 11166 of the Penal Code.

7 (~~t~~)

8 (u) Failure to comply with the elder and dependent adult abuse
9 reporting requirements of Section 15630 of the Welfare and
10 Institutions Code.

11 (~~u~~)

12 (v) Willful denial of access to client records as otherwise
13 provided by law.

14 11976.10. The department shall revoke a license, certification,
15 or registration issued under this part upon a decision made in
16 accordance with the procedures set forth in the adjudication
17 provisions of the Administrative Procedure Act (Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of Title
19 2 of the Government Code) that contains any finding of fact that
20 the counselor or registrant engaged in any act of sexual contact,
21 as defined in Section 729 of the Business and Professions Code,
22 when that act is with a client, or with a former client when the
23 relationship was terminated primarily for the purpose of engaging
24 in that act. The revocation shall not be stayed by the administrative
25 law judge or the department.

26 11976.15. The department may deny an application, or may
27 suspend or revoke a license, certification, or registration issued
28 under this part, for denial of licensure, revocation, suspension,
29 restriction, or other disciplinary action imposed by another state
30 or territory of the United States, or by any other governmental
31 agency, on a license, certificate, or registration to practice alcohol
32 and other drug counseling or other healing art. A certified copy of
33 the disciplinary action decision or judgment shall be conclusive
34 evidence of that action.

35 11976.20. The director may temporarily suspend a license,
36 certification, or registration prior to a hearing when, in the opinion
37 of the director, the action is necessary to protect a client from
38 physical or mental abuse, abandonment, or other substantial threat
39 to health or safety. The director shall give notice of the temporary
40 suspension and the effective date of the temporary suspension and,

1 at the same time, shall serve an accusation. Upon receipt of a notice
2 of defense to the accusation, the director shall, within 15 days, set
3 the matter for hearing, and the hearing shall be held as soon as
4 possible. The temporary suspension shall remain in effect until the
5 time the hearing is completed and the director has made a final
6 determination on the need for the temporary suspension to remain
7 in place pending resolution of the accusation. However, the
8 temporary suspension shall be deemed vacated if the director fails
9 to make a final determination on the merits within 30 days after
10 the hearing, if the director hears the matter personally or within
11 30 days after the department receives the proposed decision from
12 the Office of Administrative Hearings, or if the matter is heard by
13 a hearing officer.

14 11976.25. (a) A person ~~licensed, certified, or registered by~~
15 *who has applied for or received a license, certification, or*
16 *registration from the department under this part has the right to*
17 *appeal an adverse decision of the department with regard to his or*
18 *her application, license, certificate, or registration.*

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

24 11976.30. The department may impose reasonable terms,
25 conditions, or restrictions on a disciplinary action to protect the
26 health, safety, and welfare of the public.

27 11976.35. A person may request reinstatement of a license or
28 certification, or a reduction of discipline, by applying for
29 reinstatement or reduction pursuant to Section 11522 of the
30 Government Code.

31 11976.40. An applicant who fails a written or oral examination
32 administered by or on behalf of the department may within one
33 year from the notification date of failure retake that examination
34 at the next regularly scheduled examination date, without further
35 application, upon payment of the required examination fees.
36 Thereafter, the applicant shall not be eligible for further
37 examination until he or she files a new application, meets all
38 current requirements, and pays all required fees.

39 11976.45. (a) An applicant for a license, certification, or
40 registration under this part shall consent to a state and federal level

1 criminal offender record information search as part of a criminal
2 history background check. Refusal to consent to the criminal
3 history background check, as delineated in this section, shall result
4 in denial of the license, certification, or registration.

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

9 (e)

10 (b) The following procedure shall be followed for criminal
11 offender record information searches:

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

25 (2) When received, the Department of Justice shall forward to
26 the Federal Bureau of Investigation requests for federal summary
27 criminal history information received pursuant to this section. The
28 Department of Justice shall review the information returned from
29 the Federal Bureau of Investigation and compile and disseminate
30 a response to the department.

31 (3) The Department of Justice shall provide a response to the
32 department pursuant to paragraph (1) of subdivision (p) of Section
33 11105 of the Penal Code.

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

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

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

3 ~~(d)~~

4 (c) Before issuing a registration, certification, or license to an
5 individual defined in subdivision (a) or a clearance to an individual
6 defined in subdivision (b), the department shall ensure that the
7 state and federal level criminal history of the applicant is reviewed.

8 ~~(e) The department shall deny or revoke a license, certification,
9 or registration to an individual if, at the time of the department's
10 determination, the person would be ineligible to be sentenced to
11 probation pursuant to Section 1210.1 of the Penal Code, subject
12 to all of the following conditions:~~

13 ~~(1) The department shall treat its date of determination as
14 equivalent to the date of conviction of a nonviolent drug possession
15 offense under Section 1210.1 of the Penal Code.~~

16 ~~(2) The department shall apply the five-year clearing period in
17 paragraph (1) of subdivision (b) of Section 1210.1 of the Penal
18 Code to all of the exclusions described in subdivision (b) of Section
19 1210.1 of the Penal Code.~~

20 ~~(f) Notwithstanding subdivision (e), and unless the individual
21 concerned has obtained a certificate of rehabilitation as provided
22 in Chapter 3.5 (commencing with Section 4852.01) of Part 3 of
23 Title 6 of the Penal Code, the department shall permanently deny
24 or revoke a license, certification, or registration to a person
25 convicted of any violent felony as defined in subdivision (c) of
26 Section 667.5 of the Penal Code, except that a person convicted
27 of robbery, as specified in paragraph (9) of subdivision (c) of
28 Section 667.5 of the Penal Code, or burglary as specified in
29 paragraph (21) of subdivision (c) of Section 667.5 of the Penal
30 Code, is not excluded for this reason after a period of 10 years in
31 which the person remained free of both prison custody and the
32 commission of an offense that results in a felony conviction other
33 than a nonviolent drug possession offense, or a misdemeanor
34 conviction involving physical injury or the threat of physical injury
35 to another person.~~

36 ~~(g) Notwithstanding subdivision (e) or (f), and unless the person
37 concerned has obtained a certificate of rehabilitation as provided
38 in Chapter 3.5 (commencing with Section 4852.01) of Part 3 of
39 Title 6 of the Penal Code, the department shall permanently deny
40 or revoke a license, certification, or registration to a person~~

1 convicted of driving under the influence of any alcoholic beverage
2 or drug, or under the combined influence of any alcoholic beverage
3 and drug, as specified in Section 23153 of the Vehicle Code, until
4 a period of 10 years has passed since that conviction, during which
5 period the individual remained free of both prison custody and the
6 commission of an offense that results in a felony conviction other
7 than a nonviolent drug possession offense, or a misdemeanor
8 conviction involving physical injury or the threat of physical injury
9 to another person.

10 (d) The department shall deny or revoke a license, certification,
11 or registration to an individual if, at the time of the department's
12 determination, the person meets one or more of the following:

13 (1) Has been convicted of five or more criminal offenses within
14 a 30-month period ending two years or less prior to the date of
15 the department's determination.

16 (2) Is required to register as a sex offender pursuant to Section
17 290 of the Penal Code.

18 (3) Has been convicted of a violent felony, as defined in Section
19 667.5 of the Penal Code, within three years prior to the date of
20 the department's determination.

21 ~~(h)~~

22 (e) The department may establish by regulation additional
23 criteria to implement subdivision ~~(g)~~ (d), which may include, but
24 not be limited to, standards, exemptions, and terms of
25 rehabilitation, and may include rebuttable presumptions with regard
26 to any of those.

27 ~~(i)~~

28 (f) This section shall become operative July 1, 2010.

29 11976.50. (a) Licenses or certifications issued under this part
30 shall expire within two years after the issue date. The expiration
31 date of the original license or certification shall be set by the
32 department.

33 (b) To renew an unexpired license or certification, the counselor
34 shall, on or before the expiration date of the license or certification,
35 complete the following actions:

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

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

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

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

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

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

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

13 (3) Pay all delinquency fees.

14 (4) Complete the applicable continuing education requirements.

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

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

23 ~~(1) No fact, circumstance, or condition exists that, if the license~~
24 ~~or certification were issued, would justify its revocation or~~
25 ~~suspension.~~

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

27 ~~(3) He or she takes and passes the current licensing~~
28 ~~examinations.~~

29 ~~(4) He or she submits the fees for examination eligibility and~~
30 ~~for initial license or certification issuance. *may be reinstated if the*~~
31 ~~*counselor satisfies requirements set forth in regulation.*~~

32 11976.55. A counselor shall display his or her license or
33 certification in a conspicuous place in the counselor's primary
34 place of business. The current renewal receipt shall be displayed
35 near the license.

36 11976.60. A licensed alcohol and other drug counselor who
37 conducts a private practice under a fictitious business name shall
38 not use a name that is false, misleading, or deceptive, and shall
39 inform the patient, prior to the commencement of treatment, of the

1 name and license designation of the owner or owners of the
2 practice.

3 ~~11976.65. A license or certification that is not renewed within~~
4 ~~three years after its expiration is prohibited from being renewed,~~
5 ~~restored, reinstated, or reissued thereafter, but the former licensed~~
6 ~~or certified individual may apply for and obtain a new license or~~
7 ~~certification if all of the following are satisfied:~~

8 (a) ~~No fact, circumstance, or condition exists that, if the license~~
9 ~~or certification were issued, would justify its revocation or~~
10 ~~suspension.~~

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

13 (c) ~~He or she meets the current requirements for licensure or~~
14 ~~certification as a licensed or certified alcohol and other drug~~
15 ~~counselor under Section 11975.35 or 11975.40.~~

16 11976.70. A suspended license or certification is subject to
17 expiration and may be renewed as provided in this part, but the
18 renewal does not entitle the counselor, while it remains suspended
19 and until it is reinstated, to engage in the activity to which the
20 license or certification relates, or in any other activity or conduct
21 in violation of the order or judgment by which it was suspended.

22 ~~11976.75. An individual whose license or certificate has been~~
23 ~~revoked may apply for reinstatement pursuant to Section 11522~~
24 ~~of the Government Code.~~

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

1 status whose license or certification will expire less than one year
2 from the date of the request shall be required to complete 20 hours
3 of continuing education for license renewal. A person requesting
4 to reactivate from an inactive status whose license or certification
5 will expire more than one year from the date of the request shall
6 be required to complete 40 hours of continuing education for
7 license or certification renewal.

8 11976.85. A person licensed, certified, or registered under this
9 part shall comply with both of the following:

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

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

16 11976.90. (a) Except as otherwise provided in this part, an
17 accusation filed pursuant to Section 11503 of the Government
18 Code against a person licensed, certified, or registered under this
19 part shall be filed within three years from the date the department
20 discovers the alleged act or omission that is the basis for
21 disciplinary action or within seven years from the date the alleged
22 act or omission that is the basis for disciplinary action occurred,
23 whichever occurs first.

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

28 (c) An accusation alleging sexual misconduct shall be filed
29 within three years after the department discovers the act or
30 omission alleged as the grounds for disciplinary action or within
31 10 years after the act or omission alleged as the grounds for
32 disciplinary action occurred, whichever occurs first.

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

37 (e) The limitation period provided by subdivision (a) shall be
38 tolled during any period if material evidence necessary for
39 prosecuting or determining whether a disciplinary action would

1 be appropriate is unavailable to the department due to an ongoing
2 criminal investigation.

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

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

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

12 (3) The date the department receives from the complainant a
13 written release of information pertaining to the complainant’s
14 diagnosis and treatment.

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

26 11976.97. (a) Education, supervised experience, and work
27 experience gained outside of California may be accepted toward
28 the licensure or certification requirements if it is substantially the
29 equivalent of the requirements of this part.

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

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

36 (2) Passes the ~~licensing examinations as specified in Section~~
37 ~~11975.35 or 11975.40.~~ *current applicable examination.*

38 (3) Pays the required fees.

39 (4) Passes the required background check.

1 (5) Is not subject to denial of licensure *or certification* under
2 this part.

3
4 CHAPTER 4. FISCAL PROVISIONS
5

6 11977.10. The Alcohol and Other Drug Counselors License
7 Fund is hereby established in the State Treasury. All fees and fines
8 collected by the department in accordance with this part shall be
9 deposited in this fund. The money in the fund shall be available,
10 upon appropriation by the Legislature, for the purpose of supporting
11 the counselor licensing activities of the department.

12 11977.15. (a) Until the department establishes different fees
13 by regulation, the department shall assess the following fees
14 relating to the licensure, certification, or registration of alcohol
15 and other drug counselors:

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

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

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

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

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

26 (A) An applicant who fails to appear for an examination, after
27 having been scheduled to take the examination, shall forfeit the
28 examination fee.

29 (B) This subdivision shall not establish or limit the examination
30 fee charged for the examination recognized in subdivision (a) of
31 Section 11975.50 or any other examination that is recognized by
32 the department but not administered by or on behalf of the
33 department.

34 (6) The fee for rescoring an examination shall be twenty dollars
35 (\$20).

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

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

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

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

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

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

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

12 (14) The fee for the state level criminal offender record
13 information search shall be set by the Department of Justice and
14 the fee for the federal level criminal offender record information
15 search shall be set by the Federal Bureau of Investigation.

16 (b) The department may establish fees based on other categories
17 or classifications that the department deems necessary or
18 convenient to maintain an effective and equitable fee structure.
19 However, the total fees collected by the department pursuant to
20 this part shall not exceed the total cost to the department of
21 administering this part.

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

26 SEC. 2. Section 11165.7 of the Penal Code is amended to read:
27 11165.7. (a) As used in this article, “mandated reporter” is
28 defined as any of the following:

- 29 (1) A teacher.
- 30 (2) An instructional aide.
- 31 (3) A teacher’s aide or teacher’s assistant employed by any
32 public or private school.
- 33 (4) A classified employee of any public school.
- 34 (5) An administrative officer or supervisor of child welfare and
35 attendance, or a certificated pupil personnel employee of any public
36 or private school.
- 37 (6) An administrator of a public or private day camp.
- 38 (7) An administrator or employee of a public or private youth
39 center, youth recreation program, or youth organization.

- 1 (8) An administrator or employee of a public or private
2 organization whose duties require direct contact and supervision
3 of children.
- 4 (9) Any employee of a county office of education or the State
5 Department of Education, whose duties bring the employee into
6 contact with children on a regular basis.
- 7 (10) A licensee, an administrator, or an employee of a licensed
8 community care or child day care facility.
- 9 (11) A Head Start program teacher.
- 10 (12) A licensing worker or licensing evaluator employed by a
11 licensing agency as defined in Section 11165.11.
- 12 (13) A public assistance worker.
- 13 (14) An employee of a child care institution, including, but not
14 limited to, foster parents, group home personnel, and personnel of
15 residential care facilities.
- 16 (15) A social worker, probation officer, or parole officer.
- 17 (16) An employee of a school district police or security
18 department.
- 19 (17) Any person who is an administrator or presenter of, or a
20 counselor in, a child abuse prevention program in any public or
21 private school.
- 22 (18) A district attorney investigator, inspector, or local child
23 support agency caseworker unless the investigator, inspector, or
24 caseworker is working with an attorney appointed pursuant to
25 Section 317 of the Welfare and Institutions Code to represent a
26 minor.
- 27 (19) A peace officer, as defined in Chapter 4.5 (commencing
28 with Section 830) of Title 3 of Part 2, who is not otherwise
29 described in this section.
- 30 (20) A firefighter, except for volunteer firefighters.
- 31 (21) A physician, surgeon, psychiatrist, psychologist, dentist,
32 resident, intern, podiatrist, chiropractor, licensed nurse, dental
33 hygienist, optometrist, marriage, family and child counselor,
34 clinical social worker, or any other person who is currently licensed
35 under Division 2 (commencing with Section 500) of the Business
36 and Professions Code.
- 37 (22) Any emergency medical technician I or II, paramedic, or
38 other person certified pursuant to Division 2.5 (commencing with
39 Section 1797) of the Health and Safety Code.

1 (23) A psychological assistant registered pursuant to Section
2 2913 of the Business and Professions Code.

3 (24) A marriage, family, and child therapist trainee, as defined
4 in subdivision (c) of Section 4980.03 of the Business and
5 Professions Code.

6 (25) An unlicensed marriage, family, and child therapist intern
7 registered under Section 4980.44 of the Business and Professions
8 Code.

9 (26) A state or county public health employee who treats a minor
10 for venereal disease or any other condition.

11 (27) A coroner.

12 (28) A medical examiner, or any other person who performs
13 autopsies.

14 (29) A commercial film and photographic print processor, as
15 specified in subdivision (e) of Section 11166. As used in this
16 article, “commercial film and photographic print processor” means
17 any person who develops exposed photographic film into negatives,
18 slides, or prints, or who makes prints from negatives or slides, for
19 compensation. The term includes any employee of such a person;
20 it does not include a person who develops film or makes prints for
21 a public agency.

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

27 (31) An animal control officer or humane society officer. For
28 the purposes of this article, the following terms have the following
29 meanings:

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

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

37 (32) A clergy member, as specified in subdivision (d) of Section
38 11166. As used in this article, “clergy member” means a priest,
39 minister, rabbi, religious practitioner, or similar functionary of a
40 church, temple, or recognized denomination or organization.

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

3 (34) Any employee of any police department, county sheriff's
4 department, county probation department, or county welfare
5 department.

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

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

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

12 (38) An alcohol and other drug counselor or supervisor licensed,
13 certified, or registered under Part 4 (commencing with Section
14 11975.10) of Division 10.5 of the Health and Safety Code.
15 However, alcohol or drug abuse, or both alcohol and drug abuse,
16 is not in and of itself a sufficient basis for reporting child abuse or
17 neglect.

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

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

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

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

1 (f) Public and private organizations are encouraged to provide
2 their volunteers whose duties require direct contact with and
3 supervision of children with training in the identification and
4 reporting of child abuse and neglect.

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

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

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

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

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

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

5 (ii) Report to the State Department of Social Services any case
6 of known or suspected abuse occurring in a residential care facility
7 for the elderly, as defined in Section 1569.2 of the Health and
8 Safety Code, or in an adult day care facility, as defined in paragraph
9 (2) of subdivision (a) of Section 1502.

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

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

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

19 (B) If the suspected or alleged abuse occurred in a state mental
20 hospital or a state developmental center, the report shall be made
21 to designated investigators of the State Department of Mental
22 Health or the State Department of Developmental Services, or to
23 the local law enforcement agency.

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

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

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

1 denomination, or organization, has a duty to keep those
2 communications secret.

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

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

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

20 (i) The mandated reporter has been told by an elder or dependent
21 adult that he or she has experienced behavior constituting physical
22 abuse, as defined in Section 15610.63, abandonment, abduction,
23 isolation, financial abuse, or neglect.

24 (ii) The mandated reporter is not aware of any independent
25 evidence that corroborates the statement that the abuse has
26 occurred.

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

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

34 (B) This paragraph shall not be construed to impose upon
35 mandated reporters a duty to investigate a known or suspected
36 incident of abuse and shall not be construed to lessen or restrict
37 any existing duty of mandated reporters.

38 (4) (A) In a long-term care facility, a mandated reporter shall
39 not be required to report as a suspected incident of abuse, as defined

1 in Section 15610.07, an incident where all of the following
2 conditions exist:

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

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

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

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

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

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

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

35 (3) If the suspected or alleged abuse occurred in a state mental
36 health hospital or a state developmental center, the report may be
37 made to the designated investigator of the State Department of
38 Mental Health or the State Department of Developmental Services
39 or to a local law enforcement agency or to the local ombudsperson.
40 Except in an emergency, the local ombudsperson and the local law

1 enforcement agency shall report any case of known or suspected
2 criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse,
3 as soon as is practicable.

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

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

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

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

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

36 (g) (1) Whenever this section requires a county adult protective
37 services agency to report to a law enforcement agency, the law
38 enforcement agency shall, immediately upon request, provide a
39 copy of its investigative report concerning the reported matter to
40 that county adult protective services agency.

1 (2) Whenever this section requires a law enforcement agency
2 to report to a county adult protective services agency, the county
3 adult protective services agency shall, immediately upon request,
4 provide to that law enforcement agency a copy of its investigative
5 report concerning the reported matter.

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

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

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

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

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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