

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER:** AB 2756

**VERSION:** Introduced: February 22, 2008

**AUTHOR:** Duvall

**SPONSOR:** None – Spot Bill

**RECOMMENDED POSITION:**

**SUBJECT:** Pharmacists: furnishing drugs during an emergency

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**EXISTING LAW:**

Authorizes the pharmacists to, in good faith, furnish a dangerous drug or dangerous device in reasonable quantities without a prescription during a a federal, state or local emergency.

**THIS BILL WOULD:**

Make a nonsubstantive change to Section 4062 of the Business and Professions Code.

**AUTHOR'S INTENT**

To clarify Section 4062 of the Business and Professions Code to as it relates to Chapter 9, Division 2.

**FISCAL IMPACT:**

The board does not anticipate any substantial fiscal impact to its operations.

**COMMENTS:**

This is a spot bill.

**HISTORY:**

<b>Dates</b>	<b>Actions</b>
02/25/08	Feb. 25 Read first time.
02/24/08	Feb. 24 From printer. May be heard in committee March 25.
02/22/08	Feb. 22 Introduced. To print.

**ASSEMBLY BILL**

**No. 2756**

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**Introduced by Assembly Member Duvall**

February 22, 2008

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An act to amend Section 4062 of the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2756, as introduced, Duvall. Pharmacists: furnishing drugs during emergency.

Existing law authorizes a pharmacist to, in good faith, furnish a dangerous drug or dangerous device in reasonable quantities without a prescription during a federal, state, or local emergency.

This bill would make a nonsubstantive change to these provisions.

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

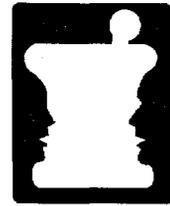
*The people of the State of California do enact as follows:*

1 SECTION 1. Section 4062 of the Business and Professions  
2 Code is amended to read:  
3 4062. (a) Notwithstanding Section 4059 or any other provision  
4 of law, a pharmacist may, in good faith, furnish a dangerous drug  
5 or dangerous device in reasonable quantities without a prescription  
6 during a federal, state, or local emergency, to further the health  
7 and safety of the public. A record containing the date, name, and  
8 address of the person to whom the drug or device is furnished, and  
9 the name, strength, and quantity of the drug or device furnished  
10 shall be maintained. The pharmacist shall communicate this

1 information to the patient's attending physician as soon as possible.  
2 Notwithstanding Section 4060 or any other provision of law, a  
3 person may possess a dangerous drug or dangerous device  
4 furnished without prescription pursuant to this section.

5 (b) During a declared federal, state, or local emergency, the  
6 board may waive application of any provisions of this chapter or  
7 the regulations adopted pursuant to ~~it~~ *this chapter* if, in the board's  
8 opinion, the waiver will aid in the protection of public health or  
9 the provision of patient care.

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: SB 963**

**VERSION: As Amended on June 25, 2007**

**AUTHOR: Ridley-Thomas**

**SPONSOR: BP& ED Committee**

**BOARD POSITION: None**

**SUBJECT: Regulatory boards: Operations**

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**EXISTING LAW:**

1. States that all existing and proposed consumer-related boards or categories of licensed professionals shall be subject to review every four years to evaluate whether each board has demonstrated a public need for continued existence.
2. Provides that in the event the board becomes inoperative and is repealed, the Department of Consumer Affairs (DCA) shall succeed the board with all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed.
3. Establishes the appointment of board members.
4. Establishes the authorization to appoint an executive officer.

**THIS BILL WOULD:**

1. Require the board to post annually on our Web site the number of reports received that year for criminal convictions, judgments, settlements, or arbitration as well as claims paid by a professional liability insurer caused by a licensee's negligence, error or omission.
2. Provide the board with the authority to adopt regulations that provide an incentive to licensees to provide services within the scope of licensure, on a pro bono basis. The regulations could reduce the amount of renewal fee required for a licensee who demonstrates compliance with the pro bono requirements.
3. Require the board to adopt regulations for the number of staff required to adequately investigate and if necessary bring a disciplinary action against a licensee and specifies that the staff level shall at minimum be the number of staff per 1,000 persons regulated by the board and shall include the appropriate number of staff to complete all investigatory and disciplinary functions.

4. Require board members to disclose all ex parte communication at the board's next public meeting and that such communication will be recorded in the board's minutes. Defines "ex parte" communication.
5. State that it is the intent of the Legislature to be subject to ongoing and continuous review as well as a periodic thorough review when issues arise requiring that level of review and when such a review is requested by a Member of the Legislature or the Chief of the Office of the Consumer Advocate. The review shall evaluate and determine whether its operations are effectively protecting the public and that protection of the public is the highest priority of the board.
6. Provide that if the board is deemed deficient and its members removed, a successor board shall be appointed that shall succeed to, and be vested with, all the duties, powers, purposes, responsibilities and jurisdiction not otherwise repealed. Specify that the number of board members will remain the same and designates the appointing authorities for new members.
7. Require the board to enter into an agreement with the DCA to provide various administrative functions including personnel, information technology, examination and call centers. States that a board shall not enter into such an agreement if it would reduce the board's ability to comply with its duties prescribed in law.
8. Replace the duties of the Joint Committee on Boards, Commissions, and Consumer Protection with the Office of the Consumer Advocate to determine whether the highest priority of the licensing program is the protection of the public.
9. Make subject to approval of the DCA director as well as confirmation of the Senate, the appointment of an Executive Officer.
10. Require the board to post on our Web site minutes from public meetings within 10 days of the date of the meeting.
11. Require the board to adopt meaningful, measurable and manageable performance measures to include:
  - A comprehensive statement of the board's mission, goals, objectives and legal jurisdiction in protecting the health, safety and welfare of the public.
  - The board's enforcement priorities, complaint and enforcement data, budget expenditures with average and median cost per case, case aging data specific to post and preaccusation cases at the Attorney General's Office
  - The board's fund conditions, sources of revenues and expenditure categories for the last four fiscal years.

- Description of the board's licensing process including the time and cost required to implement and administer the licensing examination, ownership of the licensing examination, relevancy and validity of the licensing examination and passage rate and areas of examination.
  - Board initiation of legislative efforts, budget change proposals and other initiatives it has taken to improve its legislative mandate.
12. Require the board to report to the director of DCA and the chief of the Office of the Consumer Advocate our performance measures on a quarterly basis as well as to post this information on the board's Web site. In addition, require the board to report this information annually to the Department of Finance, the Legislative Analyst's Office and the Legislature.
  13. Require the chief of the Office of the Consumer Advocate in consultation with LAO to annually review the information provided and report to the Legislature if it determines that a board has failed to meet the performance measures established.
  14. Require each board member to provide an annual report to the authority that appointed him or her the extent to which the member has achieved his or her goals and objectives that years as well as to report on goals and objectives for the upcoming year.
  15. Require the board to post these reports on the board's Web site within 30 days of submission.
  16. Require the department to report to the Legislature and the Governor when a board has been unable to schedule or convene a meeting because of a lack of a quorum caused by the absence of its members or by a vacancy in its membership.
  17. Require the director of the DCA the work with the State Chief Information Officer to replace the department's existing information technology system and allow the director to change each of the board's systems on a pro rata basis for the costs of replacing the information technology system.
  18. Require the director of DCA to annually report to the chairperson of fiscal committees for each house of the Legislature, as well as the Joint Legislative Budget Committee information specific information about the Office of the Consumer Advocate.
  19. Require the board to submit all notices and final rulemaking records to the chief of the Office of the Consumer Advocate, in addition to the director of the DCA and specifies the timeframes and procedures for review and approval or disapproval.

20. Create the Office of the Consumer Advocate to promote the efficiency of each board that comprise the department and designate that the office is under the supervision and control of a chief. The chief will be appointed by the Governor and subject to Senate confirmation and will serve a four year term.
21. Require the chief to appointment of chief counsel of the office as well as adequate number of attorneys to carry out the provisions.
22. Specify the duties of the Office of the Consumer Advocate to serve as an independent monitor, and detail the powers given to the chief as well as the Office of the Consumer Advocate which includes allowing the office to appear at a board meeting and permitting participation in a disciplinary proceeding by the board whenever the chief determines that the appearance is required to promote and protect the interests of consumers.
23. Allow the office to exercise and perform functions, powers and duties as may be deemed appropriate to protect and promote the interests of consumers as directed by the Governor or the Legislature.
24. Require the chief to report annually to the Governor and appear annually before committees of the Legislature as specified.
25. Allow the chief to annually charge each board on a pro rata basis an amount sufficient to carry out the provisions.
26. Allow a board member to serve as a public member of more than one board at a time if not prohibited by another law.
27. Authorize a member of the Legislature or the chief to request the appropriate standing policy committee to conduct an analysis to evaluate a state board. This request must describe any perceived deficiencies in the operation of the board and the detailed reasons an analysis of its operations is requested.
28. Require the appropriate standing policy committee to investigate the perceived deficiencies, including holding public meetings. This committee may request the assistance from the Office of the Consumer Advocate.
29. Require determination by the committee if based on the information obtained during the course of the investigation if the highest priority of a board's operations is consumer protection.
30. Specify the types of issues the committee shall review and consider when making their determination.
31. Require the committee to report to the Joint Committee on Rules if a board is deemed deficient at which time each member of the board will be removed from office without a hearing within 10 business days and a successor board shall be appointed. In

addition, the Office of the Consumer Advocate will assume the duties of an independent monitor for the board and shall report to the Legislature within one year making recommendations for required reforms of the board.

### **AUTHOR'S INTENT**

According to the author's office, the intent of this legislation is to develop a more effective method of continuing state licensing and regulation when the Legislature sunsets a licensing board. This bill is intended to perform the ongoing continuation of the licensing and regulation of a profession via a more independent board structure, than by a bureau operated by the Department.

### **FISCAL IMPACT**

In its amended form, the Board of Pharmacy (board) will experience fiscal impact to cover the cost of additional staff allowed under this proposal as well as the new computer system and will most likely see a large increase in the amount of pro rata it pays to the department. Unfortunately board staff was unable to obtain information from the department in advance of this meeting to quantify these increases.

### **COMMENTS**

This legislation was significantly amended on June 25, 2007 to become a new bill. Several of the functions assigned to the Office of the Consumer Advocate are already assigned to the DCA and its director as well as the Bureau of State Audits. It is unclear if the DCA's role will change as an oversight to board or if the board will now be subject to continual review by both the director as well as the chief.

The board currently provides weekly updates to the director's office detailing the board's work for the week as well as any pressing issues. A special report is required monthly. The board completes an annual Agency Statistical Profile documenting the workload of the board for the previous fiscal year.

Several of the public reporting requirements mandated in this legislation are already provided by the board already provides on a quarterly basis as part of its inherent committee structure and close adherence to the performance measures established in the board's strategic plan.

The board's record for consumer protection is solid and strong. The board continually demonstrates its commitment to consumer protection and as such further scrutiny by another office would not be problematic for the board, except potentially for an increase in reporting requirements and possible redirection of staff to complete the reports.

Should this bill become law, the board would need to seek additional staffing to comply with all the requirements and would need to seek a statutory fee increase to cover the increased expenditures for computer systems and pro rata charges.

There are a couple of items of concern:

1. Allowing only 10 days to post public meeting minutes on the board's Web site is not a reasonable time frame given the length of meetings, the complexity of the issues as well as turn around time for board members to vote on minutes. Moreover it eliminates the board's ability to review minutes,
2. The board could lose its ability to hire the executive officer of its choice, and rather this process could become very political in nature. Given the role of the executive officer, the board may want sole discretion in making this hiring decision.

Some benefits of this proposal include:

1. A legislative mandate to replace the board's very outdated computer system.
2. A legislative mandate to adopt by regulation the personnel needed to complete all investigatory and disciplinary functions. The ratio included in the legislation is one staff per 1,000 persons regulated.

## **HISTORY:**

Date	Action
June 25	From committee with author's amendments. Read second time. Amended. Re-referred to Com. on B. & P.
June 21	To Com. on B. & P.
June 6	In Assembly. Read first time. Held at Desk.
June 6	Read third time. Passed. (Ayes 26. Noes 13. Page 1279.) To Assembly.
May 31	From committee: Do pass. (Ayes 10. Noes 4. Page 1224.) Read second time. To third reading.
May 25	Set for hearing May 31.
May 7	Placed on APPR. suspense file.
Apr. 25	Set for hearing May 7.
Apr. 24	From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 6. Noes 2. Page 706.) Re-referred to Com. on APPR.

Apr. 16 From committee with author's amendments. Read second time.  
Amended. Re-referred to Com. on B., P. & E.D.  
Mar. 29 Set for hearing April 23.  
Mar. 15 To Com. on B., P. & E.D.  
Feb. 26 Read first time.  
Feb. 25 From print. May be acted upon on or after March 27.  
Feb. 23 Introduced. To Com. on RLS. for assignment. To print.

AMENDED IN ASSEMBLY JUNE 25, 2007

AMENDED IN SENATE APRIL 16, 2007

**SENATE BILL**

**No. 963**

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**Introduced by Senator Ridley-Thomas**

February 23, 2007

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

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

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

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

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

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

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

~~Existing law creates the Department of Consumer Affairs within the State and Consumer Services Agency. Under existing law, the department consists of boards that license and regulate members of various professions and vocations. Existing law provides for the boards to become inoperative on a specified date unless that date is extended or deleted by the Legislature. Under existing law, when a board becomes inoperative, the department succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the board and its executive officer that are not otherwise repealed or made inoperative.~~

~~This bill would instead, when a board becomes inoperative, create a successor board in the Department of Consumer Affairs that succeeds to and is vested with all of the duties, powers, purposes, responsibilities, and jurisdiction of the board that are not otherwise repealed or made inoperative. The bill would provide for the successor board to have the~~

~~same number of members and composition as the prior board, would provide that its members be appointed by the same appointing authorities, for the same term, and with the same requirements as the prior board members, and would give the successor board the same authority to appoint an executive officer as the prior board had.~~

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

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

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

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

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

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

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

18     (a) *Criminal convictions.*

19     (b) *Judgments, settlements, or arbitration awards.*

20     (c) *Claims paid by a professional liability insurer caused by*  
21 *the licensee’s negligence, error, or omission.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (3) Final rulemaking records.

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

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

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

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

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

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

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

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

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

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

31 *CHAPTER 4.5. OFFICE OF THE CONSUMER ADVOCATE*

32 *Article 1. General Provisions*

33  
 34  
 35  
 36 360. *This chapter shall be known and may be cited as the Office*  
 37 *of the Consumer Advocate Act.*

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

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

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

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

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

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

10 (d) *“Office” means the Office of the Consumer Advocate.*  
11

12 *Article 2. Administration*  
13

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

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

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

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

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

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

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

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

3  
4 *Article 3. Powers and Duties*  
5

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13

14

#### Article 4. Revenue

15

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

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

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

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

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

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

34

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

38

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

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

3 *(1) A board, as defined in Section 22.*  
4 *(2) A state board, as defined in Section 9148.2 of the*  
5 *Government Code.*

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

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

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

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

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

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

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

- 1     (3) *Whether other conditions have occurred that would warrant*  
2 *increased, decreased, or the same amount of regulation by the*  
3 *board.*
- 4     (4) *If regulation of the profession or practice is necessary,*  
5 *whether existing statutes and regulations establish the least*  
6 *restrictive form of regulation consistent with the public interest,*  
7 *considering other available regulatory mechanisms, and whether*  
8 *the board's rules promote the public interest and are within the*  
9 *scope of legislative intent.*
- 10    (5) *Whether the board operates and enforces its regulatory*  
11 *responsibilities in the public interest and whether its regulatory*  
12 *mission is impeded or enhanced by existing statutes, regulations,*  
13 *policies, practices, or any other circumstances, including*  
14 *budgetary, resources, and personnel matters.*
- 15    (6) *Whether an analysis of the board's operations indicates that*  
16 *the entity performs its statutory duties efficiently and effectively.*
- 17    (7) *Whether the composition of the board adequately represents*  
18 *the public interest and whether the board encourages public*  
19 *participation in its decisions rather than participation only by the*  
20 *profession or vocation and the individuals it regulates.*
- 21    (8) *Whether the board and its laws or regulations stimulate or*  
22 *restrict competition and the extent of the economic impact the*  
23 *board's regulatory practices have on the state's business and*  
24 *technological growth.*
- 25    (9) *Whether complaint investigation, intervention, and*  
26 *disciplinary procedures adequately protect the public and whether*  
27 *the final disposition of complaints, investigations, restraining*  
28 *orders, and disciplinary actions are in the public interest or these*  
29 *procedures are, instead, self-serving to the profession, vocation,*  
30 *or individuals being regulated by the board.*
- 31    (10) *Whether the scope of practice of the regulated profession*  
32 *or vocation contributes to the highest utilization of personnel and*  
33 *whether the entry requirements for the profession or vocation*  
34 *encourage affirmative action.*
- 35    (11) *Whether administrative and statutory changes are*  
36 *necessary to improve the board's operations to promote the public*  
37 *interest.*
- 38    (d) *The standing policy committee shall determine if a board is*  
39 *deficient. The committee shall report its deficiency determination*  
40 *to the Joint Committee on Rules. Notwithstanding any other*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 (3) The board shall solicit from the following organizations  
2 input and recommendations regarding members to be appointed  
3 to the credentialing committee:
- 4 (A) The Medical Board of California.
  - 5 (B) The California Dental Association.
  - 6 (C) The California Association of Oral and Maxillofacial  
7 Surgeons.
  - 8 (D) The California Medical Association.
  - 9 (E) The California Society of Plastic Surgeons.
  - 10 (F) Any other source that the board deems appropriate.
- 11 (4) The credentialing committee shall meet at a time and place  
12 directed by the board to evaluate applicants for permits. A quorum  
13 of three members shall be required for the committee to consider  
14 applicants and make recommendations to the board.
- 15 (f) A licensee may not perform any elective, facial cosmetic  
16 surgical procedure except at a general acute care hospital, a licensed  
17 outpatient surgical facility, or an outpatient surgical facility  
18 accredited by the Joint Commission on Accreditation of Healthcare  
19 Organizations (JCAHO), the American Association for Ambulatory  
20 Health Care (AAAHC), the Medicare program, or an accreditation  
21 agency approved by the Medical Board of California pursuant to  
22 subdivision (g) of Section 1248.1 of the Health and Safety Code.
- 23 (g) For purposes of this section, the following terms shall have  
24 the following meanings:
- 25 (1) “Elective cosmetic surgery” means any procedure defined  
26 as cosmetic surgery in subdivision (d) of Section 1367.63 of the  
27 Health and Safety Code, and excludes any procedure that  
28 constitutes reconstructive surgery, as defined in subdivision (c) of  
29 Section 1367.63 of the Health and Safety Code.
  - 30 (2) “Facial” means those regions of the human body described  
31 in Section 1625 and in any regulations adopted pursuant to that  
32 section by the board.
- 33 (h) A holder of a permit issued pursuant to this section shall not  
34 perform elective facial cosmetic surgical procedures unless he or  
35 she has malpractice insurance or other financial security protection  
36 that would satisfy the requirements of Section 2216.2 and any  
37 regulations adopted thereunder.
- 38 (i) A holder of a permit shall comply with the requirements of  
39 subparagraph (D) of paragraph (2) of subdivision (a) of Section  
40 1248.15 of the Health and Safety Code, and the reporting

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Six members of the board shall constitute a quorum.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (2) Financial management.

35 (3) Public safety.

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

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

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

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

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

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

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

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

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

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

23 18602.5. (a) The commission shall adopt and submit a strategic  
24 plan to the Governor and the Legislature on or before September  
25 30, 2008. The commission shall also submit a report to the  
26 Governor and the Legislature on the status of the adoption of the  
27 strategic plan ~~during the commission's next regularly scheduled~~  
28 ~~sunset review after January 1, 2007 on or before March 1, 2008.~~  
29 The strategic plan shall include, but shall not be limited to, efforts  
30 to resolve prior State Athletic Commission deficiencies in the  
31 following areas:

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

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

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

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

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

3 (6) Outdated information technology.

4 (7) Unorganized and improper accounting.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

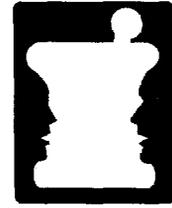
33 ~~(d) The executive officer shall give receipts for all money~~  
34 ~~received by him or her and pay it to the Department of Consumer~~  
35 ~~Affairs, taking its receipt therefor. Besides the duties required by~~  
36 ~~this chapter, the executive officer shall perform other duties~~  
37 ~~pertaining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

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

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

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**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: SB 1096**

**VERSION: As introduced January 14, 2008**

**AUTHOR: Calderon**

**SPONSOR: Adheris, Inc.**

**BOARD POSITION: Oppose**

**SUBJECT: Medical Information**

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**EXISTING LAW:**

1. Prohibits a provider of health care, health care service plan or contractor from disclosing medical information regarding a patient without first obtaining an authorization from the patient.
2. Makes exceptions that include allowing for the disclosure of patient medical information without authorization if compelled by a court, board, commission or administrative agency under specified conditions or pursuant to a subpoena as specified or pursuant to a search warrant lawfully issued.
3. Specifies that a provider of health care a health care service plan can also disclose medical information without prior approval for purposes of diagnosis or treatment of a patient, for paying for health care services rendered and may disclose information to public agencies, clinical investigators or healthcare institutions for research purposes.
4. Provides additional exemptions and details the limitations and parameters under which the exemptions apply.

**THIS BILL WOULD:**

1. Allow for written communication to be mailed to a patient by a pharmacy if deemed to be necessary to provide health care services to the patient and will not require prior authorization if all of the following are met:
  - The written communication encourages the patient to adhere to the prescribed course of medical treatment as prescribed.
  - The written communication pertains only to the prescribed course of medication treatment and does not describe or mention any other pharmaceutical products.
  - All product-related information shall be consistent with the current federal Food and Drug Administration (FDA) approved product package insert.
  - A copy of each written communication version shall be submitted to the FDA.

- Evidence-based or consensus-based practice guidelines shall be the basis of any information that is provided to patients in order to improve their overall health.
- All personally identifiable medical information collected, used and disclosed shall be confidential as specified.
- If the written communication is paid for, in whole or in part by a manufacturer, distributor or provider of a health care product, the communication must disclose whether the pharmacy receives direct or indirect remuneration in a typeface no smaller than 14-point type.
- The communication contains instructions in a typeface no smaller than 14-point font describing how the patient may opt out of future communications.

### **AUTHOR'S INTENT**

According to the author, allowing communication with pharmacy patients about the importance of following treatment prescribed by their doctors, including refill reminders, has proven benefits to individual patients and public health.

### **COMMENTS**

While the intent of this legislation is good, the mechanism by which the goal is to be achieved appears to be violation a patient's confidentiality. Further, this bill would provide consumers with potentially unnecessary marketing information disguised as medication information sponsored by drug manufacturers.

It is also of concern that a pharmacy could receive direct or indirect remuneration from a third party for providing the written communication. This could potentially discredit the health care provider role of a pharmacist, even if the pharmacy does not receive remuneration from the message's sponsor.

Patients receive a significant amount of information at the time a prescription is dispensed, both on the prescription label itself, through supplemental drug inserts, as well as through direct patient counseling. This information is provided to improve patient adherence to medication therapy. Patients receiving additional sponsored information at the time of dispensing could be particularly vulnerable to marketing messages. Moreover, it can make the other, essential health care information about how to take the medicine also appear as an advertisement.

There is nothing to prohibit a pharmacy from directing communication to a patient that may have transferred the prescription to another pharmacy.

Staff requested an analysis by the DCA legal office to determine if this proposal would constitute a violation of HIPAA.

## PRIOR HISTORY/RELATED BILLS

SB 843 (Calderon) contained similar provisions to those contained in this proposal. Staff was advised that this proposal would not move in its current form.

## FISCAL IMPACT

The board does not anticipate any major fiscal impact to the board however could experience an increase in consumer calls and complaints. This minor impact could most likely be absorbed with existing resources.

## SUPPORT/OPPOSITION

### Support

None on file

### Opposition

CA Alliance for Retired Americans  
CMA  
Consumer Federations of CA  
Consumer Union  
Gray Panthers  
Privacy Right Clearinghouse  
World Privacy Forum

## HISTORY:

<b>Dates</b>	<b>Actions</b>
01/15/08	Jan. 15 From print. May be acted upon on or after February 14.
01/14/08	Jan. 14 Introduced. Read first time. To Com. on RLS. for assignment. To print.

**Introduced by Senator Calderon**

January 14, 2008

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1096, as introduced, Calderon. Medical information.

The Confidentiality of Medical Information Act prohibits a provider of health care, a health care service plan, contractor, or corporation and its subsidiaries and affiliates from intentionally sharing, selling, using for marketing, or otherwise using any medical information, as defined, for any purpose not necessary to provide health care services to a patient, except as expressly authorized by the patient, enrollee, or subscriber, as specified, or as otherwise required or authorized by law. Violations of these provisions are subject to a civil action for compensatory and punitive damages, and, if a violation results in economic loss or personal injury to a patient, it is punishable as a misdemeanor.

This bill would, under those provisions, allow a pharmacy to mail specified written communications to a patient, without the patient's authorization under specified conditions. Those conditions include, among other things, that the written communication shall pertain only to the prescribed course of medical treatment, that it may not mention any other pharmaceutical products, that a copy of each version shall be submitted to the federal Food and Drug Administration, and that it shall include specified disclosures regarding whether the pharmacy receives direct or indirect remuneration for making that written communication.

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

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

1 SECTION 1. Section 56.10 of the Civil Code is amended to  
2 read:

3 56.10. (a) No provider of health care, health care service plan,  
4 or contractor shall disclose medical information regarding a patient  
5 of the provider of health care or an enrollee or subscriber of a  
6 health care service plan without first obtaining an authorization,  
7 except as provided in subdivision ~~(b) or (c)~~ (b), (c), or (d).

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

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

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

14 (3) By a party to a proceeding before a court or administrative  
15 agency pursuant to a subpoena, subpoena duces tecum, notice to  
16 appear served pursuant to Section 1987 of the Code of Civil  
17 Procedure, or any provision authorizing discovery in a proceeding  
18 before a court or administrative agency.

19 (4) By a board, commission, or administrative agency pursuant  
20 to an investigative subpoena issued under Article 2 (commencing  
21 with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title  
22 2 of the Government Code.

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

28 (6) By a search warrant lawfully issued to a governmental law  
29 enforcement agency.

30 (7) By the patient or the patient's representative pursuant to  
31 Chapter 1 (commencing with Section 123100) of Part 1 of Division  
32 106 of the Health and Safety Code.

33 (8) By a coroner, when requested in the course of an  
34 investigation by the coroner's office for the purpose of identifying  
35 the decedent or locating next of kin, or when investigating deaths  
36 that may involve public health concerns, organ or tissue donation,  
37 child abuse, elder abuse, suicides, poisonings, accidents, sudden  
38 infant deaths, suspicious deaths, unknown deaths, or criminal

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

6 (9) When otherwise specifically required by law.

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

9 (1) The information may be disclosed to providers of health  
10 care, health care service plans, contractors, or other health care  
11 professionals or facilities for purposes of diagnosis or treatment  
12 of the patient. This includes, in an emergency situation, the  
13 communication of patient information by radio transmission or  
14 other means between emergency medical personnel at the scene  
15 of an emergency, or in an emergency medical transport vehicle,  
16 and emergency medical personnel at a health facility licensed  
17 pursuant to Chapter 2 (commencing with Section 1250) of Division  
18 2 of the Health and Safety Code.

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

37 (3) The information may be disclosed to a person or entity that  
38 provides billing, claims management, medical data processing, or  
39 other administrative services for providers of health care or health  
40 care service plans or for any of the persons or entities specified in

1 paragraph (2). However, no information so disclosed shall be  
2 further disclosed by the recipient in any way that would violate  
3 this part.

4 (4) The information may be disclosed to organized committees  
5 and agents of professional societies or of medical staffs of licensed  
6 hospitals, licensed health care service plans, professional standards  
7 review organizations, independent medical review organizations  
8 and their selected reviewers, utilization and quality control peer  
9 review organizations as established by Congress in Public Law  
10 97-248 in 1982, contractors, or persons or organizations insuring,  
11 responsible for, or defending professional liability that a provider  
12 may incur, if the committees, agents, health care service plans,  
13 organizations, reviewers, contractors, or persons are engaged in  
14 reviewing the competence or qualifications of health care  
15 professionals or in reviewing health care services with respect to  
16 medical necessity, level of care, quality of care, or justification of  
17 charges.

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

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

30 (7) The information may be disclosed to public agencies, clinical  
31 investigators, including investigators conducting epidemiologic  
32 studies, health care research organizations, and accredited public  
33 or private nonprofit educational or health care institutions for bona  
34 fide research purposes. However, no information so disclosed shall  
35 be further disclosed by the recipient in any way that would disclose  
36 the identity of a patient or violate this part.

37 (8) A provider of health care or health care service plan that has  
38 created medical information as a result of employment-related  
39 health care services to an employee conducted at the specific prior

1 written request and expense of the employer may disclose to the  
2 employee's employer that part of the information that:

3 (A) Is relevant in a lawsuit, arbitration, grievance, or other claim  
4 or challenge to which the employer and the employee are parties  
5 and in which the patient has placed in issue his or her medical  
6 history, mental or physical condition, or treatment, provided that  
7 information may only be used or disclosed in connection with that  
8 proceeding.

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

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

24 (10) The information may be disclosed to a health care service  
25 plan by providers of health care that contract with the health care  
26 service plan and may be transferred among providers of health  
27 care that contract with the health care service plan, for the purpose  
28 of administering the health care service plan. Medical information  
29 may not otherwise be disclosed by a health care service plan except  
30 in accordance with the provisions of this part.

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

39 (12) The information relevant to the patient's condition and care  
40 and treatment provided may be disclosed to a probate court

1 investigator in the course of any investigation required or  
2 authorized in a conservatorship proceeding under the  
3 Guardianship-Conservatorship Law as defined in Section 1400 of  
4 the Probate Code, or to a probate court investigator, probation  
5 officer, or domestic relations investigator engaged in determining  
6 the need for an initial guardianship or continuation of an existent  
7 guardianship.

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

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

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

24 (16) The information may be disclosed to a third party for  
25 purposes of encoding, encrypting, or otherwise anonymizing data.  
26 However, no information so disclosed shall be further disclosed  
27 by the recipient in any way that would violate this part, including  
28 the unauthorized manipulation of coded or encrypted medical  
29 information that reveals individually identifiable medical  
30 information.

31 (17) For purposes of disease management programs and services  
32 as defined in Section 1399.901 of the Health and Safety Code,  
33 information may be disclosed as follows: (A) to an entity  
34 contracting with a health care service plan or the health care service  
35 plan’s contractors to monitor or administer care of enrollees for a  
36 covered benefit, if the disease management services and care are  
37 authorized by a treating physician, or (B) to a disease management  
38 organization, as defined in Section 1399.900 of the Health and  
39 Safety Code, that complies fully with the physician authorization  
40 requirements of Section 1399.902 of the Health and Safety Code,

1 if the health care service plan or its contractor provides or has  
2 provided a description of the disease management services to a  
3 treating physician or to the health care service plan's or contractor's  
4 network of physicians. Nothing in this paragraph shall be construed  
5 to require physician authorization for the care or treatment of the  
6 adherents of a well-recognized church or religious denomination  
7 who depend solely upon prayer or spiritual means for healing in  
8 the practice of the religion of that church or denomination.

9 (18) The information may be disclosed, as permitted by state  
10 and federal law or regulation, to a local health department for the  
11 purpose of preventing or controlling disease, injury, or disability,  
12 including, but not limited to, the reporting of disease, injury, vital  
13 events, including, but not limited to, birth or death, and the conduct  
14 of public health surveillance, public health investigations, and  
15 public health interventions, as authorized or required by state or  
16 federal law or regulation.

17 (19) The information may be disclosed, consistent with  
18 applicable law and standards of ethical conduct, by a  
19 psychotherapist, as defined in Section 1010 of the Evidence Code,  
20 if the psychotherapist, in good faith, believes the disclosure is  
21 necessary to prevent or lessen a serious and imminent threat to the  
22 health or safety of a reasonably foreseeable victim or victims, and  
23 the disclosure is made to a person or persons reasonably able to  
24 prevent or lessen the threat, including the target of the threat.

25 (20) The information may be disclosed as described in Section  
26 56.103.

27 (d) Except to the extent expressly authorized by the patient or  
28 enrollee or subscriber or as provided by subdivisions (b) and (c),  
29 no provider of health care, health care service plan, contractor, or  
30 corporation and its subsidiaries and affiliates shall intentionally  
31 share, sell, use for marketing, or otherwise use any medical  
32 information for any purpose not necessary to provide health care  
33 services to the patient. *For purposes of this section, a written*  
34 *communication mailed to a patient by a pharmacy shall be deemed*  
35 *to be necessary to provide health care services to the patient and*  
36 *shall not require prior authorization, if all of the following*  
37 *conditions are met:*

38 (1) *The written communication encourages the patient to adhere*  
39 *to the prescribed course of medical treatment as prescribed by a*  
40 *licensed health care professional and may include information*

1 *about that particular pharmaceutical drug as authorized in this*  
2 *section.*

3 *(2) The written communication pertains only to the prescribed*  
4 *course of medical treatment, and does not describe or mention*  
5 *any other pharmaceutical products.*

6 *(3) All product-related information in the written communication*  
7 *shall be consistent with the current federal Food and Drug*  
8 *Administration (FDA) approved product package insert, and*  
9 *provide fair and balanced information regarding the product's*  
10 *benefits and risks in accordance with the FDA requirements and*  
11 *policies.*

12 *(4) A copy of each written communication version shall be*  
13 *submitted to the FDA Center for Drug Evaluation and Research,*  
14 *Division of Drug Marketing, Advertising and Communications,*  
15 *prior to program implementation.*

16 *(5) Evidence-based or consensus-based practice guidelines*  
17 *shall be the basis of any information that is provided to patients*  
18 *in order to improve their overall health, prevent clinical*  
19 *exacerbations or complications, or promote patient*  
20 *self-management strategies.*

21 *(6) All personally identifiable medical information collected,*  
22 *used, and disclosed pursuant to this subdivision shall be*  
23 *confidential and shall be used solely to deliver the written*  
24 *communication to the patient. Access to the information shall be*  
25 *limited to authorized persons. Any entity that receives the*  
26 *information pursuant to this subdivision shall comply with existing*  
27 *requirements, including Sections 56.101 and 1798.84, concerning*  
28 *confidentiality and security of information. The pharmacy must*  
29 *have a written agreement with any entity that receives the*  
30 *information. The written agreement shall require the entity to*  
31 *maintain the confidentiality of the information it receives from the*  
32 *pharmacy and prohibit the entity from disclosing or using the*  
33 *information for any purpose other than to deliver to the patient*  
34 *the written communication that is the subject of the written*  
35 *agreement.*

36 *(7) If the written communication is paid for, in whole or in part,*  
37 *by a manufacturer, distributor, or provider of a health care product*  
38 *or service, the written communication shall disclose whether the*  
39 *pharmacy receives direct or indirect remuneration, including, but*  
40 *not limited to, gifts, fees, payments, subsidies, or other economic*

1 *benefits from a third party for making the written communication*  
2 *and shall disclose, in a clear and conspicuous location, the source*  
3 *of any sponsorship in a typeface no smaller than 14-point type.*

4 *(8) The communication contains instructions in a typeface no*  
5 *smaller than 14-point type describing how the patient may opt out*  
6 *of future communications by, for example, calling a toll-free*  
7 *number or visiting a Web site, and no further sponsored message*  
8 *is made to the individual after 30 calendar days from the date the*  
9 *individual makes the opt out request.*

10 (e) Except to the extent expressly authorized by the patient or  
11 enrollee or subscriber or as provided by subdivisions (b) and (c),  
12 no contractor or corporation and its subsidiaries and affiliates shall  
13 further disclose medical information regarding a patient of the  
14 provider of health care or an enrollee or subscriber of a health care  
15 service plan or insurer or self-insured employer received under  
16 this section to any person or entity that is not engaged in providing  
17 direct health care services to the patient or his or her provider of  
18 health care or health care service plan or insurer or self-insured  
19 employer.

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: SB 1270**

**VERSION: As Amended March 27, 2008**

**AUTHOR: Cedillo**

**SPONSOR: Pharmaceutical industry**

**RECOMMENDED POSITION:**

**SUBJECT: Pharmacy: dangerous drug and devices pedigree**

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**EXISTING LAW:**

1. On or after January 1, 2009 requires an electronic pedigree to accompany each distribution of a dangerous drug.
2. Prohibits a wholesaler or pharmacy from selling, trading, transferring, or acquiring a dangerous drug without a pedigree.
3. Authorizes the board to extend the compliance date for these pedigree requirements to January 1, 2011.
4. Provides exceptions from the pedigree requirements for certain transactions.

**THIS BILL WOULD:**

1. As amended, delete the pedigree provisions and would instead require the certification or pedigree of distributors or persons who distribute dangerous drugs manufactured on or after January 1, 2009, outside the normal chain of distribution, as specified.
2. Authorize the board to require verification of specific transactions.
3. Prohibit a wholesaler from selling, trading, transferring, or acquiring a dangerous drug without complying with this requirement.
4. Commencing January 1, 2011, prohibit a pharmacy from acquiring, selling, trading, or transferring a dangerous drug without complying with this requirement.

**AUTHOR'S INTENT:**

**COMMENTS:**

This is currently a spot bill sponsored by the pharmaceutical industry to amend the board's electronic pedigree requirements. As amended, this bill deletes the pedigree requirements.

**HISTORY:****Dates Actions**

03/27/08 Mar. 27 From committee with author's amendments. Read second time.  
Amended. Re-referred to Com. on B., P. & E.D.

03/13/08 Mar. 13 Set for hearing April 7.

02/28/08 Feb. 28 To Com. on B., P. & E.D.

02/20/08 Feb. 20 From print. May be acted upon on or after March 21.

02/19/08 Feb. 19 Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE MARCH 27, 2008

SENATE BILL

No. 1270

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Introduced by Senator Cedillo

February 19, 2008

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An act to amend Sections ~~4034, 4163, and 4163.5~~ of *4034 and 4163 of, and to repeal Sections 4163.1 and 4163.5 of*, the Business and Professions Code, relating to pharmacy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1270, as amended, Cedillo. Pharmacy: dangerous drug and device pedigrees.

Existing law, the Pharmacy Law, provides for the licensure and regulation of the practice of pharmacy and the sale of dangerous drugs or dangerous devices by the California State Board of Pharmacy, in the Department of Consumer Affairs. On and after January 1, 2009, existing law requires a pedigree, as defined, to accompany each distribution of a dangerous drug, and prohibits a wholesaler or pharmacy from selling, trading, transferring, or acquiring a dangerous drug without a pedigree. Existing law authorizes the board to extend the compliance date for these pedigree requirements to January 1, 2011, in specified circumstances. Existing law provides exceptions from the pedigree requirements for certain transactions. *A knowing violation of the Pharmacy Law is a crime.*

~~This bill would instead impose the pedigree requirement and the prohibition against selling, trading, transferring, or acquiring a dangerous drug without a pedigree on an unspecified date, authorize the board to extend the compliance date to an unspecified date in those specified circumstances, and make conforming changes delete the pedigree provisions and would instead require the certification or pedigree of~~

distributors or persons who distribute dangerous drugs manufactured on or after January 1, 2009, outside of the normal chain of distribution, as defined. The bill would authorize the board to require verification of specific transactions. The bill would prohibit a wholesaler from selling, trading, transferring, or acquiring a dangerous drug without complying with this requirement, and would, commencing January 1, 2011, prohibit a pharmacy from acquiring, selling, trading, or transferring a dangerous drug without complying with this requirement. The bill would exempt specified transactions from these requirements.

Because this bill would impose new requirements under the Pharmacy Law, the knowing violation of which would be a crime, it would impose a state-mandated local program.

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

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

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

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

1     ~~SECTION 1. Section 4034 of the Business and Professions~~  
 2     ~~Code is amended to read:~~  
 3     ~~4034. (a) "Pedigree" means a record, in electronic form,~~  
 4     ~~containing information regarding each transaction resulting in a~~  
 5     ~~change of ownership of a given dangerous drug, from sale by a~~  
 6     ~~manufacturer, through acquisition and sale by one or more~~  
 7     ~~wholesalers, manufacturers, or pharmacies, until final sale to a~~  
 8     ~~pharmacy or other person furnishing, administering, or dispensing~~  
 9     ~~the dangerous drug. The pedigree shall be created and maintained~~  
 10    ~~in an interoperable electronic system, ensuring compatibility~~  
 11    ~~throughout all stages of distribution.~~  
 12    ~~(b) A pedigree shall include all of the following information:~~  
 13    ~~(1) The source of the dangerous drug, including the name, the~~  
 14    ~~federal manufacturer's registration number or a state license~~  
 15    ~~number as determined by the board, and principal address of the~~  
 16    ~~source.~~

1     ~~(2) The trade or generic name of the drug, the quantity of the~~  
2 ~~dangerous drug, its dosage form and strength, the date of the~~  
3 ~~transaction, the sales invoice number, the container size, the~~  
4 ~~number of containers, the expiration dates, and the lot numbers.~~

5     ~~(3) The business name, address, and the federal manufacturer's~~  
6 ~~registration number or a state license number as determined by the~~  
7 ~~board, of each owner of the dangerous drug, and the dangerous~~  
8 ~~drug shipping information, including the name and address of each~~  
9 ~~person certifying delivery or receipt of the dangerous drug.~~

10     ~~(4) A certification under penalty of perjury from a responsible~~  
11 ~~party of the source of the dangerous drug that the information~~  
12 ~~contained in the pedigree is true and accurate.~~

13     ~~(e) A single pedigree shall include every change of ownership~~  
14 ~~of a given dangerous drug from its initial manufacture through to~~  
15 ~~its final transaction to a pharmacy or other person for furnishing,~~  
16 ~~administering, or dispensing the drug, regardless of repackaging~~  
17 ~~or assignment of another National Drug Code (NDC) Directory~~  
18 ~~number.~~

19     ~~(d) A pedigree shall track each dangerous drug at the smallest~~  
20 ~~package or immediate container distributed by the manufacturer,~~  
21 ~~received and distributed by the wholesaler, and received by the~~  
22 ~~pharmacy or another person furnishing, administering, or~~  
23 ~~dispensing the dangerous drug.~~

24     ~~(e) Any return of a dangerous drug to a wholesaler or~~  
25 ~~manufacturer shall be documented on the same pedigree as the~~  
26 ~~transaction that resulted in the receipt of the drug by the party~~  
27 ~~returning it.~~

28     ~~(f) If a licensed health care service plan, hospital organization,~~  
29 ~~and one or more physician organizations have exclusive contractual~~  
30 ~~relationships to provide health care services, drugs distributed~~  
31 ~~between these persons shall be deemed not to have changed~~  
32 ~~ownership.~~

33     ~~(g) The following transactions are not required to be recorded~~  
34 ~~on a pedigree:~~

35     ~~(1) The provision of samples of dangerous drugs by a~~  
36 ~~manufacturer's employee to an authorized prescriber, provided~~  
37 ~~the samples are dispensed to a patient of the prescriber without~~  
38 ~~charge.~~

39     ~~(2) An injectable dangerous drug that is delivered by the~~  
40 ~~manufacturer directly to an authorized prescriber or other entity~~

1 directly responsible for administration of the injectable dangerous  
2 drug, only for an injectable dangerous drug that by law may only  
3 be administered under the professional supervision of the prescriber  
4 or other entity directly responsible for administration of the drug.  
5 ~~Injectable dangerous drugs exempted from the pedigree~~  
6 ~~requirement by this paragraph may not be dispensed to a patient~~  
7 ~~or a patient's agent for self-administration, and shall only be~~  
8 ~~administered to the patient, as defined in Section 4016, by the~~  
9 ~~prescriber or other authorized entity that received the drug directly~~  
10 ~~from the manufacturer.~~

11 ~~(3) The exemption in paragraph (2) shall expire and be~~  
12 ~~inoperative on January 1, \_\_\_\_\_, unless prior to that date the board~~  
13 ~~receives, at a public hearing, evidence that entities involved in the~~  
14 ~~distribution of the injectable dangerous drugs subject to that~~  
15 ~~paragraph are not able to provide a pedigree in compliance with~~  
16 ~~all of the provisions of California law, and the board votes to~~  
17 ~~extend the expiration date for the exemption until January 1, \_\_\_\_\_.~~  
18 ~~The decision as to whether to extend the expiration date shall be~~  
19 ~~within the sole discretion of the board, and shall not be subject to~~  
20 ~~the requirements of Chapter 3.5 (commencing with Section 11340)~~  
21 ~~of Part 1 of Division 3 of the Government Code.~~

22 ~~(h) If a manufacturer, wholesaler, or pharmacy has reasonable~~  
23 ~~cause to believe that a dangerous drug in, or having been in, its~~  
24 ~~possession is counterfeit or the subject of a fraudulent transaction,~~  
25 ~~the manufacturer, wholesaler, or pharmacy shall notify the board~~  
26 ~~within 72 hours of obtaining that knowledge. This subdivision~~  
27 ~~shall apply to any dangerous drug that has been sold or distributed~~  
28 ~~in or through this state.~~

29 ~~(i) "Interoperable electronic system" as used in this chapter~~  
30 ~~means an electronic track and trace system for dangerous drugs~~  
31 ~~that uses a unique identification number, established at the point~~  
32 ~~of manufacture, contained within a standardized nonproprietary~~  
33 ~~data format and architecture, that is uniformly used by~~  
34 ~~manufacturers, wholesalers, and pharmacies for the pedigree of a~~  
35 ~~dangerous drug.~~

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

39 ~~(k) This section shall become operative on January 1, \_\_\_\_\_.~~  
40 ~~However, the board may extend the date for compliance with this~~

1 section and Section 4163 until January 1, \_\_\_\_\_, in accordance with  
2 Section 4163.5.

3 *SECTION 1. Section 4034 of the Business and Professions*  
4 *Code is amended to read:*

5 4034. (a) ~~“Pedigree” means a record, in electronic form,~~  
6 ~~containing information regarding each transaction resulting in a~~  
7 ~~change of ownership of a given dangerous drug, from sale by a~~  
8 ~~manufacturer, through acquisition and sale by one or more~~  
9 ~~wholesalers, manufacturers, or pharmacies, until final sale to a~~  
10 ~~pharmacy or other person furnishing, administering, or dispensing~~  
11 ~~the dangerous drug. The pedigree shall be created and maintained~~  
12 ~~in an interoperable electronic system, ensuring compatibility~~  
13 ~~throughout all stages of distribution.~~

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

15 (1) The source of the dangerous drug, including the name, the  
16 federal manufacturer’s registration number or a state license  
17 number as determined by the board, and principal address of the  
18 source.

19 (2) The trade or generic name of the drug, the quantity of the  
20 dangerous drug, its dosage form and strength, the date of the  
21 transaction, the sales invoice number, the container size, the  
22 number of containers, the expiration dates, and the lot numbers.

23 (3) The business name, address, and the federal manufacturer’s  
24 registration number or a state license number as determined by the  
25 board, of each owner of the dangerous drug, and the dangerous  
26 drug shipping information, including the name and address of each  
27 person certifying delivery or receipt of the dangerous drug.

28 (4) A certification under penalty of perjury from a responsible  
29 party of the source of the dangerous drug that the information  
30 contained in the pedigree is true and accurate.

31 (c) A single pedigree shall include every change of ownership  
32 of a given dangerous drug from its initial manufacture through to  
33 its final transaction to a pharmacy or other person for furnishing,  
34 administering, or dispensing the drug, regardless of repackaging  
35 or assignment of another National Drug Code (NDC) Directory  
36 number.

37 (d) A pedigree shall track each dangerous drug at the smallest  
38 package or immediate container distributed by the manufacturer,  
39 received and distributed by the wholesaler, and received by the

1 ~~pharmacy or another person furnishing, administering, or~~  
2 ~~dispensing the dangerous drug.~~

3 ~~(e) Any return of a dangerous drug to a wholesaler or~~  
4 ~~manufacturer shall be documented on the same pedigree as the~~  
5 ~~transaction that resulted in the receipt of the drug by the party~~  
6 ~~returning it.~~

7 ~~(f) If a licensed health care service plan, hospital organization,~~  
8 ~~and one or more physician organizations have exclusive contractual~~  
9 ~~relationships to provide health care services, drugs distributed~~  
10 ~~between these persons shall be deemed not to have changed~~  
11 ~~ownership.~~

12 ~~(g) The following transactions are not required to be recorded~~  
13 ~~on a pedigree:~~

14 ~~(1) The provision of samples of dangerous drugs by a~~  
15 ~~manufacturer's employee to an authorized prescriber, provided~~  
16 ~~the samples are dispensed to a patient of the prescriber without~~  
17 ~~charge.~~

18 ~~(2) An injectable dangerous drug that is delivered by the~~  
19 ~~manufacturer directly to an authorized prescriber or other entity~~  
20 ~~directly responsible for administration of the injectable dangerous~~  
21 ~~drug, only for an injectable dangerous drug that by law may only~~  
22 ~~be administered under the professional supervision of the prescriber~~  
23 ~~or other entity directly responsible for administration of the drug.~~  
24 ~~Injectable dangerous drugs exempted from the pedigree~~  
25 ~~requirement by this paragraph may not be dispensed to a patient~~  
26 ~~or a patient's agent for self-administration, and shall only be~~  
27 ~~administered to the patient, as defined in Section 4016, by the~~  
28 ~~prescriber or other authorized entity that received the drug directly~~  
29 ~~from the manufacturer.~~

30 ~~(3) The exemption in paragraph (2) shall expire and be~~  
31 ~~inoperative on January 1, 2010, unless prior to that date the board~~  
32 ~~receives, at a public hearing, evidence that entities involved in the~~  
33 ~~distribution of the injectable dangerous drugs subject to that~~  
34 ~~paragraph are not able to provide a pedigree in compliance with~~  
35 ~~all of the provisions of California law, and the board votes to~~  
36 ~~extend the expiration date for the exemption until January 1, 2011.~~  
37 ~~The decision as to whether to extend the expiration date shall be~~  
38 ~~within the sole discretion of the board, and shall not be subject to~~  
39 ~~the requirements of Chapter 3.5 (commencing with Section 11340)~~  
40 ~~of Part 1 of Division 3 of the Government Code.~~

1 4034. (a) The board shall require certification or pedigree of  
2 those distributors or persons who distribute dangerous drugs  
3 outside of the normal chain of distribution. The board shall adopt  
4 certification or pedigree requirements that provide the protections  
5 afforded by the normal chain of distribution. The certification or  
6 pedigree may be required to be in electronic form and may require  
7 verification of each specific transaction from the time a product  
8 leaves the manufacturer or authorized distributor by sale, trade,  
9 or transfer. This subdivision shall not apply to pharmacies until  
10 January 1, 2011, as specified in subdivision (e) of Section 4163.

11 (b) Manufacturers of a dangerous drug sold, traded, or  
12 transferred in the state of California shall not be required to  
13 comply with subdivision (a) with regard to any dangerous drug  
14 that passes through the normal chain of distribution from the  
15 manufacturer to an authorized distributor of record.

16 (c) For purposes of this section, “normal chair of distribution”  
17 means any of the following chains of custody for a dangerous drug,  
18 whether sent directly or by drop shipment:

19 (1) From a manufacturer of the dangerous drug to any of the  
20 following:

21 (A) A pharmacy or other designated person authorized by law  
22 to dispense or administer the dangerous drug to a patient.

23 (B) A wholesale distributor to a pharmacy or other designated  
24 person authorized by law to dispense or administer the dangerous  
25 drug to a patient.

26 (C) A wholesale distributor to a chain pharmacy warehouse to  
27 that chain pharmacy warehouse’s intracompany pharmacy to a  
28 patient or other designated person authorized by law to dispense  
29 or administer the dangerous drug to a patient.

30 (D) A chain pharmacy warehouse to the chain pharmacy  
31 warehouse’s intracompany pharmacy or other designated person  
32 authorized by law to dispense or administer the dangerous drug  
33 to the patient.

34 (E) An authorized distributor of record to one other authorized  
35 distributor of record to an office-based health care practitioner  
36 authorized by law to dispense or administer the dangerous drug  
37 to the patient.

38 (F) An authorized distributor to a pharmacy or other person  
39 licensed to dispense or administer the dangerous drug.

1     (2) From a manufacturer of the drug to the manufacturer's  
2     colicensed partner to any of the following:

3     (A) A pharmacy or other designated person authorized by law  
4     to dispense or administer the dangerous drug to a patient.

5     (B) A wholesale distributor to a pharmacy or other designated  
6     person authorized by law to dispense or administer the dangerous  
7     drug to a patient.

8     (C) A wholesale distributor to a chain pharmacy warehouse to  
9     that chain pharmacy warehouse's intracompany pharmacy to a  
10    patient or other designated person authorized by law to dispense  
11    or administer the dangerous drug to a patient.

12    (D) A chain pharmacy warehouse to the chain pharmacy  
13    warehouse's intracompany pharmacy or other designated person  
14    authorized by law to dispense or administer the dangerous drug  
15    to the patient.

16    (E) An authorized distributor of record to one other authorized  
17    distributor of record to an office-based health care practitioner  
18    authorized by law to dispense or administer the dangerous drug  
19    to the patient.

20    (F) An authorized distributor to a pharmacy or other person  
21    licensed to dispense or administer the dangerous drug.

22    (3) From a manufacturer of the drug to the manufacturer's  
23    third-party logistics provider to any of the following.

24    (A) A pharmacy or other designated person authorized by law  
25    to dispense or administer the dangerous drug to a patient.

26    (B) A wholesale distributor to a pharmacy or other designated  
27    person authorized by law to dispense or administer the dangerous  
28    drug to a patient.

29    (C) A wholesale distributor to a chain pharmacy warehouse to  
30    that chain pharmacy warehouse's intracompany pharmacy to a  
31    patient or other designated person authorized by law to dispense  
32    or administer the dangerous drug to a patient.

33    (D) A chain pharmacy warehouse to the chain pharmacy  
34    warehouse's intracompany pharmacy or other designated person  
35    authorized by law to dispense or administer the dangerous drug  
36    to the patient.

37    (E) An authorized distributor of record to one other authorized  
38    distributor of record to an office-based health care practitioner  
39    authorized by law to dispense or administer the dangerous drug  
40    to the patient.

1 (F) An authorized distributor to a pharmacy or other person  
2 licensed to dispense or administer the dangerous drug.

3 (4) From a manufacturer of the drug to the manufacturer's  
4 authorized distributor of record to any of the following:

5 (A) A pharmacy or other designated person authorized by law  
6 to dispense or administer the dangerous drug to a patient.

7 (B) A wholesale distributor to a pharmacy or other designated  
8 person authorized by law to dispense or administer the dangerous  
9 drug to a patient.

10 (C) A wholesale distributor to a chain pharmacy warehouse to  
11 that chain pharmacy warehouse's intracompany pharmacy to a  
12 patient or other designated person authorized by law to dispense  
13 or administer the dangerous drug to a patient.

14 (D) A chain pharmacy warehouse to the chain pharmacy  
15 warehouse's intracompany pharmacy or other designated person  
16 authorized by law to dispense or administer the dangerous drug  
17 to the patient.

18 (E) An authorized distributor of record to one other authorized  
19 distributor of record to an office-based health care practitioner  
20 authorized by law to dispense or administer the dangerous drug  
21 to the patient.

22 (F) An authorized distributor to a pharmacy or other person  
23 licensed to dispense or administer the dangerous drug.

24 (d) For purposes of this section, "authorized distributor of  
25 record" means a distributor with whom a manufacturer has  
26 established an ongoing relationship by written agreement under  
27 which the distributor is authorized to distribute the manufacturer's  
28 products for a period of time or for a number of shipments. If the  
29 distributor is not authorized to distribute a manufacturer's entire  
30 product line, the written agreement shall identify the specific  
31 dangerous drug products that the distributor is authorized to  
32 distribute.

33 (e) This section does not apply to the provision of samples of  
34 dangerous drugs by a manufacturer's representative to an  
35 authorized prescriber, provided that the samples are dispensed to  
36 a patient of the prescriber without charge.

37 (f) This section does not apply to any dangerous drugs that are  
38 manufactured before January 1, 2009.

39 (g) For the purposes of this section, a dangerous drug does not  
40 include those drugs intended for use in nonhumans.

1 (i) ~~“Interoperable electronic system” as used in this chapter~~  
2 ~~means an electronic track and trace system for dangerous drugs~~  
3 ~~that uses a unique identification number, established at the point~~  
4 ~~of manufacture, contained within a standardized nonproprietary~~  
5 ~~data format and architecture, that is uniformly used by~~  
6 ~~manufacturers, wholesalers, and pharmacies for the pedigree of a~~  
7 ~~dangerous drug.~~

8 (j)

9 (i) ~~The application of the pedigree requirement in pharmacies~~  
10 ~~this section shall be subject to review during the board’s sunset~~  
11 ~~review to be conducted as described in subdivision (f) of Section~~  
12 ~~4001.~~

13 ~~(k) This section shall become operative on January 1, 2009.~~  
14 ~~However, the board may extend the date for compliance with this~~  
15 ~~section and Section 4163 until January 1, 2011, in accordance with~~  
16 ~~Section 4163.5.~~

17 SEC. 2. Section 4163 of the Business and Professions Code is  
18 amended to read:

19 4163. (a) A manufacturer or wholesaler may not furnish a  
20 dangerous drug or dangerous device to an unauthorized person.

21 (b) Dangerous drugs or dangerous devices shall be acquired  
22 from a person authorized by law to possess or furnish dangerous  
23 drugs or dangerous devices. When the person acquiring the  
24 dangerous drugs or dangerous devices is a wholesaler, the  
25 obligation of the wholesaler shall be limited to obtaining  
26 confirmation of licensure of those sources from whom it has not  
27 previously acquired dangerous drugs or dangerous devices.

28 ~~(e) Except as otherwise provided in Section 4163.5, commencing~~

29 (c) ~~Commencing~~ on January 1, ~~2009~~, a wholesaler or  
30 pharmacy may not sell, trade, or transfer a dangerous drug at  
31 wholesale without ~~providing a pedigree complying with the~~  
32 ~~requirements of Section 4034.~~

33 (d) ~~Except as otherwise provided in Section 4163.5, commencing~~  
34 ~~on January 1, 2009~~, a wholesaler or pharmacy may not acquire  
35 a dangerous drug without ~~receiving a pedigree complying with the~~  
36 ~~requirements of Section 4034.~~

37 SEC. 3. ~~Section 4163.5 of the Business and Professions Code~~  
38 ~~is amended to read:~~

39 4163.5. ~~The board may extend the date for compliance with the~~  
40 ~~requirement for a pedigree set forth in Sections 4034 and 4163~~

1 until January 1, \_\_\_\_\_, if it determines that manufacturers or  
2 wholesalers require additional time to implement electronic  
3 technologies to track the distribution of dangerous drugs within  
4 the state. A determination by the board to extend the deadline for  
5 providing pedigrees shall not be subject to the requirements of  
6 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division  
7 3 of Title 2 of the Government Code.

8 *(e) Commencing on January 1, 2011, a pharmacy may not*  
9 *acquire, sell, trade, or transfer a dangerous drug without*  
10 *complying with the requirements of subdivision (a) of Section 4034.*

11 *SEC. 3. Section 4163.1 of the Business and Professions Code*  
12 *is repealed.*

13 ~~4163.1. It is the intent of the Legislature that commencing on~~  
14 ~~January 1, 2007, and continuing through the full implementation~~  
15 ~~of the pedigree requirements specified by Section 4163,~~  
16 ~~manufacturers and wholesalers shall use best efforts to provide in~~  
17 ~~the most readily accessible form possible, information regarding~~  
18 ~~the manufacturer's specific relationships in the distribution of~~  
19 ~~dangerous drugs with wholesalers.~~

20 *SEC. 4. Section 4163.5 of the Business and Professions Code*  
21 *is repealed.*

22 ~~4163.5. The board may extend the date for compliance with~~  
23 ~~the requirement for a pedigree set forth in Sections 4034 and 4163~~  
24 ~~until January 1, 2011, if it determines that manufacturers or~~  
25 ~~wholesalers require additional time to implement electronic~~  
26 ~~technologies to track the distribution of dangerous drugs within~~  
27 ~~the state. A determination by the board to extend the deadline for~~  
28 ~~providing pedigrees shall not be subject to the requirements of~~  
29 ~~Chapter 3.5 (commencing with Section 11340) of Part 1 of Division~~  
30 ~~3 of Title 2 of the Government Code.~~

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



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**BILL NUMBER: SB 1504**

**VERSION: As Amended April 3, 2008**

**AUTHOR: Ridley-Thomas**

**SPONSOR: Epilepsy Foundation of California**

**RECOMMENDED POSITION:**

**SUBJECT: Antiepileptic drug products: substitution**

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**EXISTING LAW:**

1. Authorizes a pharmacist filling a prescription order for a drug product prescribed by its trade or brand name to substitute a generic drug product, subject to specified conditions.
2. Authorizes a pharmacist filling a prescription order for a drug product to substitute a drug product with a different form of medication having the same active chemical ingredients of equivalent strength and duration of therapy as the prescribed drug product, subject to specified requirements.

**THIS BILL WOULD:**

1. Prohibit a pharmacist filling a prescription order for an antiepileptic drug or formulation of an antiepileptic drug, prescribed by its trade, brand or generic name for the treatment or prevention of epileptic seizures, from substituting a drug product pursuant to those provisions without prior notification of the prescriber and the signed consent of the patient or the patient's parent, legal guardian or spouse.
2. Impose a new prohibition under the Pharmacy Law, the violation of which would be a crime.

**AUTHOR'S INTENT:**

The board is awaiting a response from the author's office.

**COMMENTS:** This bill would amend section 4052.5 of the Business and Professions Code and add subdivision (f) as it relates to the filling of a prescription order for an antiepileptic drug.

**HISTORY:**

**Dates Actions**

03/05/08 Mar. 5 To Com. on B., P. & E.D.

02/22/08 Feb. 22 From print. May be acted upon on or after March 23.

02/21/08 Feb. 21 Introduced. Read first time. To Com. on RLS. for assignment. To print.

AMENDED IN SENATE APRIL 3, 2008

**SENATE BILL**

**No. 1504**

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**Introduced by Senator Ridley-Thomas**

February 21, 2008

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An act to amend Sections 4052.5 and 4073 of the Business and Professions Code, relating to pharmacies.

LEGISLATIVE COUNSEL'S DIGEST

SB 1504, as amended, Ridley-Thomas. Antiepileptic drug products: substitution.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists by the California State Board of Pharmacy, and makes a knowing violation of the act a crime. Existing law authorizes a pharmacist filling a prescription order for a drug product prescribed by its trade or brand name to substitute a generic drug product, subject to specified requirements. Existing law authorizes a pharmacist filling a prescription order for a drug product to substitute a drug product with a different form of medication having the same active chemical ingredients of equivalent strength and duration of therapy as the prescribed drug product, subject to specified requirements.

This bill would prohibit a pharmacist filling a prescription order for an antiepileptic drug or formulation of an antiepileptic drug, prescribed by its trade, brand, or generic name for the treatment or prevention of epileptic seizures, from substituting a drug product pursuant to those provisions without prior notification of the prescriber and the signed consent of the patient or the patient's parent, legal guardian, or spouse.

Because this bill would impose a new prohibition under the Pharmacy Law, the violation of which would be a crime, it would impose a state-mandated local program.

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

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

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

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

1 SECTION 1. Section 4052.5 of the Business and Professions  
2 Code is amended to read:  
3 4052.5. (a) In addition to the authority allowed under Section  
4 4073, but subject to the express prohibition set forth in subdivision  
5 (f) of Section 4073, a pharmacist filling a prescription order for a  
6 drug product may select a different form of medication with the  
7 same active chemical ingredients of equivalent strength and  
8 duration of therapy as the prescribed drug product when the change  
9 will improve the ability of the patient to comply with the prescribed  
10 drug therapy.  
11 (b) In no case shall a selection be made pursuant to this section  
12 if the prescriber personally indicates, either orally or in his or her  
13 own handwriting, "Do not substitute" or words of similar meaning.  
14 Nothing in this subdivision shall prohibit a prescriber from  
15 checking a box on a prescription marked "Do not substitute" if the  
16 prescriber personally initials the box or checkmark.  
17 (c) Selection pursuant to this section is within the discretion of  
18 the pharmacist, except as provided in subdivision (b). The  
19 pharmacist who selects the drug product to be dispensed pursuant  
20 to this section shall assume the same responsibility for selecting  
21 the dispensed drug product as would be incurred in filling a  
22 prescription for a drug product using the prescribed form of  
23 medication. There shall be no liability on the prescriber for an act  
24 or omission by a pharmacist in selecting, preparing, or dispensing  
25 a drug product pursuant to this section.  
26 (d) This section shall apply to all prescriptions, including those  
27 presented by or on behalf of persons receiving assistance from the  
28 federal government or pursuant to the California Medical  
29 Assistance Program set forth in Chapter 7 (commencing with

1 Section 14000) of Part 3 of Division 9 of the Welfare and  
2 Institutions Code.

3 (e) When a substitution is made pursuant to this section, the use  
4 of the different form of medication shall be communicated to the  
5 patient, and the name of the dispensed drug product shall be  
6 indicated on the prescription label, unless the prescriber orders  
7 otherwise.

8 (f) This section shall not permit substitution between long-acting  
9 and short-acting forms of a medication with the same chemical  
10 ingredients or between one drug product and two or more drug  
11 products with the same chemical ingredients.

12 SEC. 2. Section 4073 of the Business and Professions Code is  
13 amended to read:

14 4073. (a) A pharmacist filling a prescription order for a drug  
15 product prescribed by its trade or brand name may select another  
16 drug product with the same active chemical ingredients of the same  
17 strength, quantity, and dosage form, and of the same generic drug  
18 name as determined by the United States Adopted Names (USAN)  
19 and accepted by the federal Food and Drug Administration (FDA),  
20 of those drug products having the same active chemical ingredients.

21 (b) In no case shall a selection be made pursuant to this section  
22 if the prescriber personally indicates, either orally or in his or her  
23 own handwriting, "Do not substitute," or words of similar meaning.  
24 Nothing in this subdivision shall prohibit a prescriber from  
25 checking a box on a prescription marked "Do not substitute";  
26 provided that the prescriber personally initials the box or  
27 checkmark. To indicate that a selection shall not be made pursuant  
28 to this section for an electronic data transmission prescription as  
29 defined in subdivision (c) of Section 4040, a prescriber may  
30 indicate "Do not substitute," or words of similar meaning, in the  
31 prescription as transmitted by electronic data, or may check a box  
32 marked on the prescription "Do not substitute." In either instance,  
33 it shall not be required that the prohibition on substitution be  
34 manually initialed by the prescriber.

35 (c) Selection pursuant to this section is within the discretion of  
36 the pharmacist, except as provided in subdivisions (b) and (f). The  
37 person who selects the drug product to be dispensed pursuant to  
38 this section shall assume the same responsibility for selecting the  
39 dispensed drug product as would be incurred in filling a  
40 prescription for a drug product prescribed by generic name. There

1 shall be no liability on the prescriber for an act or omission by a  
2 pharmacist in selecting, preparing, or dispensing a drug product  
3 pursuant to this section. In no case shall the pharmacist select a  
4 drug product pursuant to this section unless the drug product  
5 selected costs the patient less than the prescribed drug product.  
6 Cost, as used in this subdivision, is defined to include any  
7 professional fee that may be charged by the pharmacist.

8 (d) This section shall apply to all prescriptions, including those  
9 presented by or on behalf of persons receiving assistance from the  
10 federal government or pursuant to the California Medical  
11 Assistance Program set forth in Chapter 7 (commencing with  
12 Section 14000) of Part 3 of Division 9 of the Welfare and  
13 Institutions Code.

14 (e) When a substitution is made pursuant to this section, the use  
15 of the cost-saving drug product dispensed shall be communicated  
16 to the patient and the name of the dispensed drug product shall be  
17 indicated on the prescription label, except where the prescriber  
18 orders otherwise.

19 (f) In no case shall a pharmacist filling a prescription order for  
20 an antiepileptic drug, or formulation of an antiepileptic drug  
21 prescribed by its trade, brand, or generic name for the treatment  
22 or prevention of epileptic seizures, substitute a drug product  
23 pursuant to this section or subdivision (a) of Section 4052.5 without  
24 prior notification of the prescriber and the signed consent to the  
25 substitution from the patient or the patient's parent, legal guardian,  
26 or spouse.

27 For purposes of this subdivision, the following definitions apply:

28 (1) "Antiepileptic drug" means any drug approved by the United  
29 States Food and Drug Administration (FDA) for the treatment of  
30 epilepsy or the treatment or prevention of epileptic seizures.

31 (2) "Epilepsy" means a neurological condition characterized by  
32 recurrent seizures.

33 (3) "Seizure" means an acute clinical change secondary to a  
34 brief disturbance in the electrical activity of the brain.

35 (4) ~~"Substitute"~~ *"Select," "selection," "substitute,"* or  
36 *"substitution"* means the substitution for an antiepileptic drug  
37 originally prescribed ~~of a~~ *with any other* version of the same  
38 antiepileptic drug, ~~including a generic version for the prescribed~~  
39 ~~generic version, a generic version by one manufacturer for a generic~~  
40 ~~version by a different manufacturer, or a different formulation of~~

1 ~~the prescribed antiepileptic drug.~~ *antiepileptic drug, including, but*  
2 *not limited to, any of the following:*

3 *(A) A generic version for the prescribed trade or brand name*  
4 *drug.*

5 *(B) A trade or brand name drug for the prescribed generic*  
6 *version.*

7 *(C) A generic drug produced by one manufacturer for a generic*  
8 *drug produced by a different manufacturer.*

9 *(D) Any dosage form of that prescribed antiepileptic drug that*  
10 *differs from the dosage form originally prescribed by the*  
11 *prescriber.*

12 SEC. 3. No reimbursement is required by this act pursuant to  
13 Section 6 of Article XIII B of the California Constitution because  
14 the only costs that may be incurred by a local agency or school  
15 district will be incurred because this act creates a new crime or  
16 infraction, eliminates a crime or infraction, or changes the penalty  
17 for a crime or infraction, within the meaning of Section 17556 of  
18 the Government Code, or changes the definition of a crime within  
19 the meaning of Section 6 of Article XIII B of the California  
20 Constitution.

**CALIFORNIA STATE BOARD OF PHARMACY  
BILL ANALYSIS**



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**BILL NUMBER: SB 1594**

**VERSION: Introduced February 22, 2008**

**AUTHOR: Steinberg**

**SPONSOR: Hemophilia Council of California**

**RECOMMENDED POSITION:**

**SUBJECT: Bleeding disorders: blood clotting products**

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**EXISTING LAW:**

1. Requires the Director of Health Care Services to establish and administer a program for the medical care of persons with genetically handicapping conditions, including hemophilia.

**THIS BILL WOULD:**

1. Would impose specified requirements on providers of blood clotting products for home use used for the treatment and prevention of symptoms associated with bleeding disorders, including all forms of hemophilia.
2. Would also authorize the State Department of Health Care Services to adopt regulations necessary to implement these provisions.

**AUTHOR'S INTENT:**

According to the author, intravenous injection or infusion of prescribed blood clotting products, coupled with case management and specialized medical care, is the preferred method of treatment of hemophilia. The author states that the number of providers delivering blood clotting products and related equipment, supplies, and services for home use is rising. The author states that, while these providers are either pharmacies licensed by the state, or providers located in federally designated HTC's, there are currently no formal standards of service in California for providers of blood clotting products for home use. The author states that this bill will enact those standards for the benefit of persons with hemophilia and other bleeding disorders, and will maintain the current cost effective model of hemophilia care for future generations.

**COMMENTS:**

Imposes requirements on providers of blood clotting products for home use that are used to treat hemophilia and other bleeding disorders.

**SUPPORT/OPPOSITION:**

Support

Hemophilia Council of California (sponsor)  
Accredo Health Group, Inc.  
American Federation of State, County, and Municipal Employees  
Critical Care Systems, Inc.  
Herndon Pharmacy  
Plasma Protein Therapeutics Association  
Walgreens Home Care  
Two individuals

Opposition

None

**HISTORY:**

Date	Actions
03/13/08	Mar. 13 Set for hearing April 2.
03/06/08	Mar. 6 To Com. on HEALTH.
02/25/08	Feb. 25 Read first time.
02/24/08	Feb. 24 From print. May be acted upon on or after March 25.
02/22/08	Feb. 22 Introduced. To Com. on RLS. for assignment. To print.

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Introduced by Senator Steinberg

February 22, 2008

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An act to add Article 5 (commencing with Section 125286.1) to Chapter 2 of Part 5 of Division 106 of the Health and Safety Code, relating to bleeding disorders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1594, as introduced, Steinberg. Bleeding disorders: blood clotting products.

Existing law, the Holden-Moscone-Garamendi Genetically Handicapped Person's Program, requires the Director of Health Care Services to establish and administer a program for the medical care of persons with genetically handicapping conditions, including hemophilia.

This bill would impose specified requirements on providers of blood clotting products for home use used for the treatment and prevention of symptoms associated with bleeding disorders, including all forms of hemophilia. This bill would also authorize the State Department of Health Care Services to adopt regulations necessary to implement these provisions.

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

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

- 1 SECTION 1. Article 5 (commencing with Section 125286.1)
- 2 is added to Chapter 2 of Part 5 of Division 106 of the Health and
- 3 Safety Code, to read:

1 Article 5. Standards of Service for Providers of Blood Clotting  
2 Products for Home Use Act

3  
4 125286.1. This article shall be known and may be cited as the  
5 Standards of Service for Providers of Blood Clotting Products for  
6 Home Use Act.

7 125286.2. The Legislature hereby finds and declares all of the  
8 following:

9 (a) Hemophilia is a rare, hereditary, bleeding disorder affecting  
10 at least 4,000 persons in California and is a chronic, lifelong, and  
11 incurable, but treatable, disease.

12 (b) Until the 1970's, people with severe hemophilia suffered  
13 from uncontrollable internal bleeding, crippling orthopedic  
14 deformities, and a shortened lifespan. More recently, the production  
15 of highly purified blood clotting factors have provided people with  
16 hemophilia and other bleeding disorders with the opportunity to  
17 lead normal lives, free of pain and crippling arthritis.

18 (c) The preferred method of treatment of hemophilia today is  
19 intravenous injection, or infusion, of prescription blood clotting  
20 products several times per week, along with case management and  
21 specialized medical care at a federally designated regional  
22 hemophilia treatment center.

23 (d) Pharmacies and other entities specializing in the delivery of  
24 blood clotting products and related equipment, supplies, and  
25 services for home use form a growing enterprise in California.  
26 Some of these entities are licensed by the state or are located at  
27 federally designated regional hemophilia treatment centers, or  
28 both, but many of these entities are neither licensed nor located at  
29 hemophilia treatment centers.

30 (e) Timely access to federally designated regional hemophilia  
31 centers and appropriate products and services in the home,  
32 including infusion of blood clotting products and related  
33 equipment, and supplies and services for persons with hemophilia  
34 and other bleeding disorders, reduces mortality and bleeding-related  
35 hospitalizations, and is extremely cost effective, according to the  
36 federal Centers for Disease Control and Prevention and the Medical  
37 and Scientific Advisory Council of the National Hemophilia  
38 Foundation.

39 (f) Eligible persons with hemophilia or other bleeding disorders  
40 may receive treatment through the Genetically Handicapped

1 Persons Program, the California Children’s Services Program, and  
2 Medi-Cal. Access to quality blood clotting products for home use  
3 and related equipment, supplies, and services for people with  
4 hemophilia or other bleeding disorders promotes cost containment  
5 in each of these publicly funded programs as well as in the health  
6 insurance and health care industries more generally.

7 (g) For the benefit of persons with hemophilia or other bleeding  
8 disorders, as well as for cost containment in health care, the  
9 purposes of this article are to do the following:

10 (1) Establish standards of service for entities that deliver blood  
11 clotting products and related equipment, supplies, and services for  
12 home use.

13 (2) Promote access to a full range of essential, cost-effective,  
14 lifesaving, blood clotting products and related equipment, supplies,  
15 and high-quality services for home use for persons with hemophilia  
16 and other bleeding disorders.

17 125286.3. Unless context otherwise requires, the following  
18 definitions shall apply for purposes of this article:

19 (a) “340B Program” means an outpatient pharmacy licensed to  
20 dispense blood clotting products in California and that is  
21 conditionally or fully designated as a covered entity under the  
22 Veterans Health Care Act of 1992 (Public Law 102-585), which  
23 enacted Section 340B of the Public Health Service Act (41 U.S.C.  
24 Sec. 201 et seq.).

25 (b) “Assay” means the amount of a particular constituent of a  
26 mixture or of the biological or pharmacological potency of a drug.

27 (c) “Ancillary infusion equipment and supplies” means the  
28 equipment and supplies required to infuse a blood clotting product  
29 into a human vein, including, but not limited to, syringes, needles,  
30 cyro cuffs, sterile gauze, field pads, gloves, alcohol swabs, numbing  
31 creams, tourniquets, medical tape, sharps or equivalent biohazard  
32 waste containers, and cold compression packs.

33 (d) “Bleeding disorder” means a medical condition characterized  
34 by a severe deficiency or absence of one or more essential blood  
35 clotting proteins in the human blood, often called “factors,”  
36 including all forms of hemophilia and other bleeding disorders  
37 that result in uncontrollable bleeding or abnormal blood clotting.

38 (e) “Blood clotting product” means an intravenously  
39 administered medicine manufactured from human plasma or  
40 recombinant biotechnology techniques, approved for distribution

1 by the federal Food and Drug Administration, that is used for the  
2 treatment and prevention of symptoms associated with bleeding  
3 disorders. Blood clotting products include, but are not limited to,  
4 Factor VII, Factor VIIa, Factor VIII, and Factor IX products, von  
5 Willebrand Factor products, bypass products for patients with  
6 inhibitors, and activated prothrombin complex concentrates.

7 (f) “Consumer” means a person needing a blood clotting product  
8 for home use.

9 (g) “Emergency” means a situation in which a prudent layperson  
10 could reasonably believe that the consumer’s condition requires  
11 immediate medical attention.

12 (h) “Hemophilia” means a human bleeding disorder caused by  
13 a hereditary deficiency of the Factors I, VII, VIII, IX, XI, or XII  
14 blood clotting protein in human blood.

15 (i) “Hemophilia treatment center” means a facility for the  
16 treatment of bleeding disorders, including, but not limited to,  
17 hemophilia, that receives funding from the federal government  
18 sources, including, but not limited to, the federal Centers for  
19 Disease Control and Prevention and the federal Health Resources  
20 and Services Administration (HRSA) of the United States  
21 Department of Health and Human Services.

22 (j) “Home nursing services” means specialized nursing care  
23 provided in the home setting to assist a patient in the reconstitution  
24 and administration of blood clotting products.

25 (k) “Home use” means infusion or other use of a blood clotting  
26 product in a place other than a state-recognized hemophilia  
27 treatment center. Places where home use occurs include, without  
28 limitation, a home, hospital, emergency room, clinic, or other  
29 physician office.

30 (l) “Provider of blood clotting products for home use” means a  
31 seller and provider of blood clotting products, ancillary infusion  
32 equipment, home nursing services, and patient assistance for the  
33 management of bleeding disorders for home use. These providers  
34 include, without limitation, 340 programs, other pharmacies, and,  
35 when treatment is not provided onsite, hemophilia treatment  
36 centers.

37 125286.4. Each provider of blood clotting products for home  
38 use shall meet all of the following requirements:

1 (a) Have sufficient knowledge and understanding of bleeding  
2 disorders and the medical and psychosocial management thereof,  
3 including, but not limited to, home therapy.

4 (b) Have sufficient experience providing services to persons  
5 with bleeding disorders.

6 (c) Ensure that its customer service staff meets the requirements  
7 of subdivisions (a) and (b).

8 (d) Have a pharmacist available at all times, 24 hours a day,  
9 seven days a week, every day of the year, either onsite or on call,  
10 to fill prescriptions for blood clotting products.

11 (e) Supply blood clotting products and home nursing services,  
12 as prescribed by the consumer's treating physician, and not make  
13 any substitutions of blood clotting products or assay amounts  
14 without the prior written approval of the treating physician.

15 (f) Ask the prescribing physician which specific blood clotting  
16 product is intended whenever a prescription does not indicate the  
17 specific product and then use the product named in the physician's  
18 response.

19 (g) Supply all brands of blood clotting products approved by  
20 the federal Food and Drug Administration in multiple assay ranges  
21 (low, medium, and high, as applicable) and vial sizes, including  
22 products manufactured from human plasma and those manufactured  
23 with recombinant biotechnology techniques.

24 (h) Supply all needed ancillary infusion equipment and supplies  
25 with each prescription.

26 (i) Maintain adequate stocks of blood clotting products and  
27 ancillary infusion equipment and supplies.

28 (j) Store and ship, or otherwise deliver, all blood clotting  
29 products in conformity with all federally mandated standards.

30 (k) When home nursing services are prescribed by the treating  
31 physician, provide these services either directly or through a  
32 reliable third party and coordinate pharmacy services with the third  
33 party when one is used to provide home nursing services.

34 (l) Upon receiving a nonemergency prescription, ship the  
35 prescribed blood clotting products and ancillary infusion equipment  
36 and supplies to the consumer within:

37 (1) Forty-eight hours or less for established consumers.

38 (2) Three business days or less for new consumers.

39 (m) Upon receiving a prescription for an emergency situation,  
40 deliver prescribed blood products, ancillary infusion equipment

- 1 and supplies, medications, and home nursing services to the  
2 consumer within three hours after receipt of the prescription.
- 3 (n) Maintain 24-hour oncall service seven days a week for every  
4 day of the year, adequately screen phone calls for emergencies,  
5 and respond to all phone calls within one hour or less.
- 6 (o) Provide consumers who have ordered their products with a  
7 designated contact phone number for reporting problems with a  
8 delivery and respond to these calls immediately.
- 9 (p) Provide patients with notification of recalls and withdrawals  
10 of blood clotting products and ancillary infusion equipment within  
11 24 hours and participate in the National Patient Notification System  
12 for blood clotting product recalls.
- 13 (q) Provide language translation services, both over the phone  
14 and in person, as needed by the consumer.
- 15 (r) Have a detailed plan for meeting the requirements of this  
16 article in the event of a natural or manmade disaster or other  
17 disruption of normal business operations.
- 18 (s) Provide for proper collection, removal, and disposal of  
19 hazardous waste pursuant to state and federal law, including, but  
20 not limited to, sharps containers for the removal and disposal of  
21 medical waste.
- 22 (t) Clearly inform the consumer of his or her copay, deductible,  
23 and coinsurance payment responsibilities each time he or she orders  
24 a blood clotting product.
- 25 (u) Provide consumers with a copy of all billing invoices.
- 26 (v) Provide appropriate and necessary recordkeeping and  
27 documentation as required by state and federal law, including, but  
28 not limited to:
- 29 (1) Documenting the pedigree of all concentrates of blood  
30 clotting products so that the path of a bottle of any product can be  
31 traced from the time it left the manufacturer to the time it is  
32 delivered to the consumer.
- 33 (2) Having prescriptions available for treating physicians and  
34 consumers.
- 35 (w) Comply with the privacy and confidentiality requirements  
36 of the Health Insurance Portability and Accountability Act of 1996  
37 (HIPAA).
- 38 125286.5. A pharmacy licensed pursuant to Article 7  
39 (commencing with Section 4110) of Chapter 9 of Division 2 of

1 the Business and Professions Code, shall be deemed to meet the  
2 requirements of Section 125286.4.  
3 125286.6. The State Department of Health Care Services may  
4 adopt regulations necessary to implement this article in accordance  
5 with the rulemaking provisions of the Administrative Procedure  
6 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of  
7 Division 3 of Title 2 of the Government Code).

O

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2122**

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**Introduced by Assembly Member Plescia**  
*(Principal coauthor: Assembly Member Jones)*

February 20, 2008

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An act to amend Section 4190 of the Business and Professions Code, and to add Section 1212.5 to the Health and Safety Code, relating to clinics.

LEGISLATIVE COUNSEL'S DIGEST

AB 2122, as amended, Plescia. Surgical clinics: licensure.

Existing law, with certain exceptions, provides for the licensure and regulation of clinics, including specialty clinics, by the State Department of Public Health. Existing law defines a specialty clinic to include a surgical clinic that is not part of a hospital and that provides ambulatory surgical care for patients who remain less than 24 hours. A violation of these provisions is a crime.

This bill would enact the California Outpatient Surgery Patient Safety and Improvement Act, which would require, on or after January 1, 2009, any person, firm, association, partnership, or corporation desiring a license for a surgical clinic, except specified surgical clinics, in addition to other prescribed licensing requirements, to meet prescribed operational, staffing, and procedural standards. The bill would require the department to perform *initial periodic* inspections of a surgical clinic within 45 calendar days of an application approval, and to perform *periodic inspections clinics* at least once every 3 years thereafter.

~~The bill would require the department, until January 1, 2016, if sufficient funds are made available for this purpose, as determined by~~

~~the department, pursuant to an appropriation in the annual Budget Act or other statute, to establish a program for the training of ambulatory surgical center inspection personnel, and would require the department to prepare a comprehensive report on the training program, as provided.~~  
By

By imposing new licensure requirements on surgical clinics, a violation of which would be a crime, the bill would impose a state-mandated local program.

Existing law provides that a surgical clinic may not operate and is not entitled to the benefits of specified provisions of the Pharmacy Law without a license issued by the California State Board of Pharmacy. Existing law authorizes the board to inspect a clinic at any time.

This bill would, instead, provide that a surgical clinic that is licensed by the State Department of Public Health, accredited by an accreditation agency, or certified to participate in the Medicare program is not entitled to the above-described benefits without a license issued by the board. It would also specify board inspection requirements for the accredited or certified surgical clinics, and would require self-assessments by any clinic licensed by the board.

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. This act shall be known, and may be cited, as the
- 2 California Outpatient Surgery Patient Safety and Improvement
- 3 Act.
- 4 SEC. 2. Section 4190 of the Business and Professions Code is
- 5 amended to read:
- 6 4190. (a) Notwithstanding any provision of this chapter, a
- 7 surgical clinic, licensed pursuant to paragraph (1) of subdivision
- 8 (b) of Section 1204 and Section 1212.5 of the Health and Safety
- 9 Code, accredited by an accreditation agency, as defined in
- 10 subdivision (d) of Section 1248 of the Health and Safety Code, or
- 11 certified to participate in the Medicare program under Title XVIII

1 of the federal Social Security Act (42 U.S.C. Sec. 1395 et seq.),  
2 may purchase drugs at wholesale for administration or dispensing,  
3 under the direction of a physician, to patients registered for care  
4 at the clinic, as provided in subdivision (b). The clinic shall keep  
5 records of the kind and amounts of drugs purchased, administered,  
6 and dispensed, and the records shall be available and maintained  
7 for a minimum of three years for inspection by all properly  
8 authorized personnel.

9 (b) The drug distribution service of a surgical clinic shall be  
10 limited to the use of drugs for administration to the patients of the  
11 surgical clinic and to the dispensing of drugs for the control of  
12 pain and nausea for patients of the clinic. Drugs shall not be  
13 dispensed in an amount greater than that required to meet the  
14 patient's needs for 72 hours. Drugs for administration shall be  
15 those drugs directly applied, whether by injection, inhalation,  
16 ingestion, or any other means, to the body of a patient for his or  
17 her immediate needs.

18 (c) No surgical clinic shall be entitled to the benefits of this  
19 section until it has obtained a license from the board. A separate  
20 license shall be required for each clinic location. A clinic shall  
21 notify the board of any change in the clinic's address on a form  
22 furnished by the board.

23 (d) Any proposed change in ownership or beneficial interest in  
24 the licensee shall be reported to the board, on a form to be furnished  
25 by the board, at least 30 days prior to the execution of any  
26 agreement to purchase, sell, exchange, gift or otherwise transfer  
27 any ownership or beneficial interest or prior to any transfer of  
28 ownership or beneficial interest, whichever occurs earlier.

29 (e) The board shall inspect a surgical clinic that is accredited  
30 by an accreditation agency or is certified to participate in the  
31 Medicare program, as specified in subdivision (a), but is not  
32 licensed pursuant to Sections 1204 and 1212.5 of the Health and  
33 Safety Code, within 120 days of the issuance of a clinic licensed  
34 pursuant to this article, and at least annually thereafter.

35 (f) Every surgical clinic issued a license pursuant to this article  
36 shall complete a self-assessment within 30 days of opening and at  
37 least 30 days before each license renewal pursuant to this article.  
38 The completed self-assessment form shall be retained at the  
39 licensed premises for a period of three years.

1 SEC. 3. Section 1212.5 is added to the Health and Safety Code,  
 2 to read:

3 1212.5. (a) In addition to other licensing requirements of this  
 4 chapter, any person, firm, association, partnership, or corporation  
 5 desiring a license for a surgical clinic shall meet the following  
 6 standards:

7 (1) Comply with the Medicare conditions of coverage for  
 8 ambulatory surgical centers, as set forth in Subpart C (commencing  
 9 with Section 416.40) of Part 416 of Title 42 of the Code of Federal  
 10 Regulations, including interpretive guidelines issued by the Centers  
 11 for Medicare and Medicaid Services as those guidelines pertain  
 12 to that subpart.

13 (2) Limit surgical procedures to those that:

14 (A) Do not result in extensive blood loss.

15 (B) Do not require major or prolonged invasion of body cavities.

16 (C) Do not directly involve major blood vessels.

17 (D) Do not constitute an emergency or are not life threatening  
 18 in nature.

19 (3) Establish and implement policies and procedures consistent  
 20 with the Medicare conditions of coverage set forth in Subpart C  
 21 (commencing with Section 416.40) of Part 416 of Title 42 of the  
 22 Code of Federal Regulations, including interpretive guidelines  
 23 issued by the Centers for Medicare and Medicaid Services as those  
 24 guidelines pertain to that subpart, including, but not limited to:

25 (A) Physician services, policies, and procedures, including  
 26 surgical and anesthesia services.

27 (B) Nursing services, policies, and procedures.

28 (C) Infection control policies and procedures.

29 (D) Pharmaceutical services, policies, and procedures.

30 (E) Housekeeping services, policies, and procedures that include  
 31 provisions for maintenance of a safe and clean environment.

32 (F) Laboratory and radiology services.

33 (G) Patient health records policies and procedures, which shall  
 34 be developed with the assistance of a person skilled in records  
 35 maintenance and preservation.

36 (H) Personnel policies and procedures.

37 (b) Notwithstanding subdivision (c) of Section 1228, the  
 38 department shall perform ~~initial inspections of a surgical clinic~~  
 39 ~~within 45 calendar days of the date the completed application is~~  
 40 ~~received and approved by the department. Periodic inspections~~

1 ~~shall occur at least once every three years thereafter. *periodic*~~  
2 ~~*inspections of surgical clinics at least once every three years.*~~

3 (c) The department may contract with licensed physicians and  
4 surgeons to serve as surveyors to perform inspections of surgical  
5 clinics for compliance with the licensure requirements of this  
6 chapter and in a manner that is consistent with department  
7 inspections pursuant to Section 1279.

8 ~~(d) If sufficient funds are made available for this purpose,~~  
9 ~~pursuant to an appropriation in the annual Budget Act or other~~  
10 ~~statute, the department shall, until January 1, 2016, establish a~~  
11 ~~program for training of surgical clinic inspection personnel. The~~  
12 ~~goal of this program shall be to provide a sufficient number of~~  
13 ~~qualified persons to facilitate the timely performance of the~~  
14 ~~department's duties and responsibilities relating to initial and~~  
15 ~~periodic licensing inspections of surgical clinics, in order to ensure~~  
16 ~~compliance with this chapter.~~

17 ~~(e) (1) The department shall prepare a comprehensive report~~  
18 ~~on the training program setting forth its goals, objectives, and~~  
19 ~~structure. The report shall assess processing time for initial and~~  
20 ~~periodic licensing inspections of surgical clinics and include~~  
21 ~~information on all of the following:~~

22 ~~(A) The number of surgical clinic inspection personnel to be~~  
23 ~~trained annually.~~

24 ~~(B) A timeline for completion of training.~~

25 ~~(C) A process for gathering information to evaluate the training~~  
26 ~~program's efficiency that includes dropout and retention rates.~~

27 ~~(D) A mechanism to annually assess the need for the training~~  
28 ~~program to continue.~~

29 ~~(2) The report required by paragraph (1) shall be submitted to~~  
30 ~~the Joint Legislative Budget Committee no later than July 1, 2009,~~  
31 ~~and no later than July 1 of each year thereafter, through July 1,~~  
32 ~~2014.~~

33 ~~(f)~~

34 ~~(d) (1) This section shall not apply to any surgical clinic that~~  
35 ~~is any of the following:~~

36 ~~(A) Accredited by an accreditation agency as defined in Section~~  
37 ~~1248.~~

38 ~~(B) Certified to participate in the Medicare program under Title~~  
39 ~~XVIII of the federal Social Security Act (42 U.S.C. Sec. 1395 et~~  
40 ~~seq.).~~

1 (C) Exempt from licensure pursuant to Section 1206.

2 (2) An entity exempt from the requirements of this section  
3 pursuant to paragraph (1) may, at its option, apply for licensure as  
4 a surgical clinic.

5 SEC. 4. No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 the only costs that may be incurred by a local agency or school  
8 district will be incurred because this act creates a new crime or  
9 infraction, eliminates a crime or infraction, or changes the penalty  
10 for a crime or infraction, within the meaning of Section 17556 of  
11 the Government Code, or changes the definition of a crime within  
12 the meaning of Section 6 of Article XIII B of the California  
13 Constitution.

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AMENDED IN ASSEMBLY APRIL 1, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2425**

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**Introduced by Assembly Member Coto**

February 21, 2008

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~~An act relating to health.~~ *An act to add and repeal Chapter 6.62 (commencing with Section 25255) of Division 20 of the Health and Safety Code, relating to water quality.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2425, as amended, Coto. State Department of Public Health: ~~study.~~ *water quality: pharmaceuticals.*

*Existing law prohibits any person in the course of doing business from knowingly discharging or releasing a chemical known to the state to cause cancer or reproductive toxicity into water or onto or into land where such chemical passes or probably will pass into any source of drinking water, except as specified.*

*This bill would, by July 1, 2009, require every pharmaceutical manufacturer that does business with the state and whose pharmaceutical products have been detected in the drinking water supplies within the state to file a specified report with the State Public Health Officer. The bill would repeal this reporting requirement on January 1, 2014.*

~~Existing law provides for the administration of various programs addressing public health by the State Department of Public Health.~~

~~This bill would require the department to conduct a study of the use of pharmaceuticals by vulnerable segments of the California population and the consequential adverse health effects, including the effects of~~

unintentional misuse of prescription drugs, and to report the results of the study to the appropriate committees of the Legislature.

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

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

1     SECTION. 1. *The Legislature hereby finds and declares all of*  
2 *the following:*

3     (a) *In the course of a major study conducted and reported by*  
4 *the Associated Press, pharmaceutical drugs have been detected*  
5 *in the drinking water supplies of 24 major metropolitan areas of*  
6 *the country, including southern California.*

7     (b) *The federal government does not require safety testing of*  
8 *pharmaceutical products in drinking water. Some local water*  
9 *providers screen only for one or two pharmaceutical products,*  
10 *but not other pharmaceutical products that can cause harm.*

11     (c) *An official of the United States Environmental Protection*  
12 *Agency has acknowledged that pharmaceutical "contamination*  
13 *in water supplies is a growing concern and that government has*  
14 *some catching up to do."*

15     (d) *In California, prescription drug spending totaled over \$188*  
16 *billion in 2004, a \$14 billion dollar per year spending increase*  
17 *from 1984.*

18     (e) *It is the purpose of this act to address the issue of*  
19 *prescription drugs in public drinking water systems.*

20     SEC. 2. *Chapter 6.62 (commencing with Section 25255) is*  
21 *added to Division 20 of the Health and Safety Code, to read:*

22  
23                    CHAPTER 6.62. WATER CONTAMINATION FROM  
24    PHARMACEUTICALS  
25

26     25255. *For purposes of this chapter, the following definitions*  
27 *shall apply:*

28     (a) *"Pharmaceuticals" means any drug that is sold over the*  
29 *counter and any drug that is required to bear the legend, "Caution:*  
30 *Federal law prohibits dispensing without a prescription," "RX*  
31 *only," or words of similar import.*

32     (b) *"Pharmaceutical manufacturer" means a drug manufacturer*  
33 *as defined in Section 4033 of the Business and Professions Code.*

1 25256. *On or before July 1, 2009, every pharmaceutical*  
2 *manufacturer that does business with the state, and whose*  
3 *pharmaceutical products have been detected by their chemical*  
4 *signatures in the drinking water supplies within the state, shall*  
5 *file with the State Public Health Officer a report that includes the*  
6 *following:*

7 (a) *An analysis of how these pharmaceuticals entered the*  
8 *drinking water supply of the state.*

9 (b) *Identification of the methods of preventing and removing*  
10 *pharmaceutical contaminants from the drinking water supplies of*  
11 *the state.*

12 25257. *This chapter shall remain in effect only until January*  
13 *1, 2014, and as of that date is repealed, unless a later enacted*  
14 *statute, that is enacted before January 1, 2014, deletes or extends*  
15 *that date.*

16 ~~SECTION 1. The State Department of Public Health shall~~  
17 ~~conduct a study of the use of pharmaceuticals by vulnerable~~  
18 ~~segments of the California population and their consequential~~  
19 ~~adverse health effects, including the effects of unintentional misuse~~  
20 ~~of prescription drugs, and to report the results of the study to the~~  
21 ~~appropriate committees of the Legislature.~~