

# CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

LAWS & REGULATIONS 2013



STATE OF CALIFORNIA  
**dca**  
DEPARTMENT OF CONSUMER AFFAIRS

## PREFACE

The California Board of Occupational Therapy is pleased to present the 2013 edition of the California Laws and Regulations relating to the practice of occupational therapy. This publication is a condensed version of the various codes and does not incorporate all sections of law contained within any of the respective codes.

To access a complete listing of the California Codes, please visit the following websites:

For California Codes contact:

<http://leginfo.legislature.ca.gov/faces/codes.xhtml>

For California Code of Regulations contact:

<http://ccr.oal.ca.gov>

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## GENERAL PROVISIONS

- 22. “Board”
- 30. Provision of federal employer identification number or social security number by licensee
- 31. Compliance with judgment or order for support upon issuance or renewal of license

### CHAPTER 1. THE DEPARTMENT

- 114. Reinstatement of expired license of licensee serving in military
- 114.3. Waiver of fees and requirements for “active duty” licensees
- 115. Applicability of Section 114
- 115.5. Board required to expedite licensing process
- 118. Effect of withdrawal of application; Effect of suspension, forfeiture, etc., of license
- 119. Misdemeanors pertaining to use of licenses
- 121. Practice during period between renewal and receipt of evidence of renewal
- 122. Fee for issuance of duplicate certificate
- 123. Conduct constituting subversion of licensing examination; Penalties and damages
- 125. Misdemeanor offenses by licensees
- 125.3. Direction to licensee violating licensing act to pay costs of investigation and enforcement
- 125.5. Enjoining violations; restitution orders
- 125.6. Unlawful discrimination by licensees
- 125.7. Restraining orders
- 125.8. Temporary order restraining licensee engaged or about to engage in violation of law
- 125.9. System for issuance of citations to licensees; Contents; Fines
- 128. Sale of equipment, supplies, or services for use in violation of licensing requirements
- 129. Handling of complaints; Reports to Legislature
- 134. Proration of license fees
- 136. Notification of change of address; Punishment for failure to comply

- 
- 137. Regulations requiring inclusion of license numbers in advertising, etc.
  - 138. Notice that practitioner is licensed; Evaluation of licensing examination
  - 140. Disciplinary action; Licensee's failure to record cash transactions in payment of employee wages
  - 141. Disciplinary action by foreign jurisdiction; Grounds for disciplinary action by state licensing board
  - 143. Proof of license as condition of bringing action for collection of compensation
  - 144. Requirement of fingerprints for criminal record checks

#### **CHAPTER 1.5. UNLICENSED ACTIVITY ENFORCEMENT**

- 145. Legislative findings and declarations
- 147. Authority to issue written notice to appear in court
- 148. Establishment of administrative citation system

#### **CHAPTER 3. FUNDS OF THE DEPARTMENT**

- 201. Levy for administrative expenses
- 206. Dishonored check tendered for payment of fine, fee, or penalty.

#### **ARTICLE 3.6. UNIFORM STANDARDS REGARDING SUBSTANCE-ABUSING HEALING ARTS LICENSEES**

- 315. Establishment of Substance Abuse Coordination committee; Members; Duties
- 315.2 Cease practice order
- 315.4. Cease practice order for violation of probation or diversion program

#### **CHAPTER 6. PUBLIC MEMBERS**

- 450. Qualifications generally
- 450. Avoiding conflict of interest
- 450.3 Conflicting pecuniary interests
- 450.4 [Repealed]
- 405.5 Prior industrial and professional pursuits

- 
- 
- 450.6 Age
  - 451. Delegation of duties
  - 452. “Board”
  - 453. Training and orientation program for new board members

## **CHAPTER 7. LICENSEE**

- 462. Inactive category of licensure

## **DIVISION 1.5. DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

### **CHAPTER 1. GENERAL PROVISIONS**

- 475. Applicability of division
- 476. Exceptions
- 477. “Board” and “License” Defined
- 478. “Application”; “Material”

### **CHAPTER 2. DENIAL OF LICENSES**

- 480. Grounds for denial; Effect of obtaining certificate of rehabilitation
- 481. Crime and job-fitness criteria
- 482. Rehabilitation Criteria
- 484. Attestation to good moral character of applicant
- 485. Procedure Upon Denial
- 486. Contents of decision or notice
- 487. Hearing; Time
- 489. Denial of Application without a hearing

---

### CHAPTER 3. SUSPENSION AND REVOCATION OF LICENSES

- 490. Grounds for suspension or revocation
- 490.5. Suspension of license for failure to comply with child support order
- 491. Procedure upon suspension or revocation
- 492. Effect of completion of drug diversion program on disciplinary action or denial of license
- 493. Evidentiary effect of record of conviction of crime involving moral turpitude
- 494. Interim suspension or restriction order

### CHAPTER 4. PUBLIC REPROVALS

- 494.5 Agency actions when licensee is on certified lists; Definitions; Collection and distribution of certified list information
- 495. Procedure

### CHAPTER 5. EXAMINATION SECURITY

- 496. Grounds for denial, suspension, or revocation of license
- 498. Fraud, deceit or misrepresentation as grounds for action against license
- 499. Action against license based on licentiate's actions regarding application of another

## DIVISION 2. HEALING ARTS

### CHAPTER 1. GENERAL PROVISIONS

#### ARTICLE 4. FRAUDS OF MEDICAL RECORDS

- 581. Purchase or fraudulent alteration of diplomas or other writings
- 583. False statements in documents or writings
- 584. Violation of examination security; Impersonation
- 585. Punishment

---

---

## ARTICLE 6. UNEARNED REBATES, REFUNDS, AND DISCOUNTS

- 651. Dissemination of false or misleading information concerning professional services or products; Permissible advertising
- 652. Violations by licensees

## ARTICLE 7.5. HEALTH CARE PRACTITIONERS

- 680. Health care practitioner's disclosure of name and license status
- 680.5 Additional disclosures of specified information; Applicability
- 683 Reporting name and license number of licensee prohibited from practicing
- 685 Citation of health care practitioner in default of education loan

## ARTICLE 9. INACTIVE LICENSE

- 701. Issuance
- 702. Holder prohibited from engaging in active license activity
- 703. Renewal; Fees
- 704. Restoration to active status

## ARTICLE 10.5. UNPROFESSIONAL CONDUCT

- 726. Commission of act of sexual abuse or misconduct with patient or client
- 731. Violations at work as unprofessional conduct

## ARTICLE 11. PROFESSIONAL REPORTING

- 800 Central files of licensees' individual historical records
- 801 Insurers' reports of malpractice settlement or arbitration awards; Insured's written consent to settlement
- 801.1 Report of settlement or arbitration award where state or local government acts as a self-insurer in cases of negligence, error, omission in practice, or rendering of unauthorized services resulting in death or personal injury
- 802 Reports of malpractice settlements or arbitration awards involving uninsured licensees; Penalties for noncompliance
- 803 Report of crime or liability for death or injury on part of specified licensees to licensing agency
- 803.5 Notice to board of filing charging licensee with felony; Transmittal of copy of conviction

---

## ARTICLE 12. INSURANCE FRAUD

810. Grounds for disciplinary action against health care professional

## ARTICLE 12.5. MENTAL ILLNESS OR PHYSICAL ILLNESS

820. Examination of licentiate for mental illness or physical illness affecting competency
821. Effectiveness of licentiate's failure to comply with order for examination
822. Action by Licensing Agency
823. Reinstatement of licentiate
824. Options open to licensing agency when proceeding against licentiate
826. Format of proceedings under Sections 821 and 822; Rights and powers
827. Authority of licensing agency to convene in closed session
828. Determination of insufficient evidence to bring action against licentiate; Effect on records of proceedings

## CHAPTER 1.5 EXEMPTION FROM LICENSURE

900. Requirements for exemption; Immunity from liability

## CHAPTER 5.6 OCCUPATIONAL THERAPY

2570. Citation of chapter
- 2570.1 Legislative findings and declarations
- 2570.2 Definitions
- 2570.3 Licensing requirement
- 2570.4 Persons exempt from requirements
- 2570.5 Limited permit; Procedure pending announcement of examination results
- 2570.6 Filing of written application for license
- 2570.7 Examinations
- 2570.8 Reliance on information posted on the Internet Web site
- 2570.9 Issuance of license



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2570.10	Renewal of license
2570.11	Inactive status
2570.13	Rules for supervision of assistants and aides
2570.14	Procedure for applicant not engaged in practice for five years
2570.15	Therapists and assistants trained outside of United States
2570.16	Fees
2570.17	Issued of retired license
2570.18	Representation to public
2570.185	Patient records
2570.19	California Board of Occupational Therapy
2570.20	Duties of Board; Rules; Proceedings
2570.21	Board's officers and executive officers
2570.22	Creation of Occupational Therapy Fund
2570.23	Violations
2570.24	Severability of provisions
2570.25	Priority of board; Protection of the public
2570.26	Denial, suspension, revocation, or probation of license
2570.27	Discipline; Initial license issued on probation
2570.28	Grounds for denial or discipline
2570.29	Acts constituting unprofessional conduct
2570.30	Jurisdiction of board
2570.31	Practicing occupational therapy with suspended license
2570.32	Petition for reinstatement
2570.36	Reporting of violations
2571.	Application of prescribed topical medication

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## DIVISION 7. GENERAL BUSINESS REGULATIONS.

### CHAPTER 5. ENFORCEMENT

- 17200. Definition.
- 17500. False or misleading statements generally

## CALIFORNIA CODE OF REGULATIONS, TITLE 16, DIVISION 39

### ARTICLE 1. GENERAL PROVISIONS

- 4100. Definitions
- 4101. Delegation of Certain Functions
- 4102. Filing of Addresses

### ARTICLE 2. APPLICATIONS

- 4110. Application
- 4111. Place of Filing
- 4112. Review of Application
- 4113. [Reserved-Permitted Processing Times to be Established]
- 4114. Abandonment of Application

### ARTICLE 2.1. SPONSORED FREE HEALTH CARE EVENTS - REQUIREMENTS FOR EXEMPTION

- 4116. Definitions
- 4117. Sponsoring Entity Registration and Recordkeeping Requirements
- 4118. Out-of-State Practitioner Authorization to Participate in Sponsored Event
- 4119. Termination of Authorization and Appeal

### ARTICLE 3. LICENSE, CERTIFICATE, LIMITED PERMIT, INACTIVE STATUS

- 4120. Renewal of License or Certificate
- 4121. Renewal of Expired License or Certificate; Application; Fees; Effective Date of Renewal

- 
- 
- 4122. Inactive Status
  - 4123. Limited Permit
  - 4125. Representation

#### ARTICLE 4. FEES

- 4130. Fees

#### ARTICLE 5. CITATIONS

- 4140. Issuance of Citations
- 4141. Assessment of Administrative Fines
- 4142. Appeal of Citations
- 4143. Compliance with Citations
- 4144. Disciplinary Guidelines
- 4145. Record Retention

#### ARTICLE 5.5. STANDARDS RELATED TO DENIAL, DISCIPLINE, AND REINSTATEMENT OF LICENSES

- 4146. Definitions
- 4147. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines
- 4148. Mental or Physical Examination of Fitness for Licensure
- 4149. Other Actions Constituting Unprofessional Conduct
- 4149.1. Revocation for Sexual Contact

#### ARTICLE 6. ADVANCED PRACTICES

- 4150. Definitions
- 4151. Hand Therapy
- 4152. Physical Agent Modalities
- 4152.1. Use of Topical Medications
- 4153. Swallowing Assessment, Evaluation, or Intervention
- 4154. Post Professional Education and Training
- 4155. Application for Approval in Advanced Practice Areas

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## ARTICLE 7. CONTINUING COMPETENCY REQUIREMENTS

- 4160. Definitions
- 4161. Continuing Competency
- 4162. Completion and Reporting Requirements
- 4163. Exemption from Continued Competency Requirements

## ARTICLE 8. ETHICAL STANDARDS OF PRACTICE

- 4170. Ethical Standards of Practice
- 4175. Minimum Standards for Infection Control

## ARTICLE 9. SUPERVISION STANDARDS

- 4180. Definitions
- 4181. Supervision Parameters
- 4182. Treatments Performed by Occupational Therapy Assistants
- 4183. Treatments Performed by Occupational Therapy Limited Permit Holders and Students
- 4184. Delegation of Tasks to Aides
- 4187. Occupational Therapy Assistants Serving in Administrative Positions

## LIST OTHER CODE SECTIONS

Proposed/pending regulatory amendments and approved regulatory amendments with future effective dates

Extract from the Board's *Disciplinary Guidelines*

Rehabilitation Criteria

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## BUSINESS AND PROFESSIONS CODE

### DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS

#### GENERAL PROVISIONS

#### 22. “Board”

“Board,” as used in any provision of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.”

#### 30. Provision of federal employer identification number or social security number by licensee

- (a) Notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance of the license require that the licensee provide its federal employer identification number, if the licensee is a partnership, or his or her social security number for all others.
- (b) Any licensee failing to provide the federal identification number or social security number shall be reported by the licensing board to the Franchise Tax Board and, if failing to provide after notification pursuant to paragraph (1) of subdivision (b) of Section 19528 of the Revenue and Taxation Code, shall be subject to the penalty provided in paragraph (2) of subdivision (b) of Section 19528 of the Revenue and Taxation Code.
- (c) In addition to the penalty specified in subdivision (b), a licensing board may not process any application for an original license unless the applicant or licensee provides its federal employer identification number or social security number where requested on the application.
- (d) A licensing board shall, upon request of the Franchise Tax Board, furnish to the Franchise Tax Board the following information with respect to every licensee:
- (1) Name.
  - (2) Address or addresses of record.
  - (3) Federal employer identification number if the entity is a partnership or social security number for all others.
  - (4) Type of license.
  - (5) Effective date of license or a renewal.
  - (6) Expiration date of license.

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- (7) Whether license is active or inactive, if known.
- (8) Whether license is new or a renewal.
- (e) For the purposes of this section:
- (1) "Licensee" means any entity, other than a corporation, authorized by a license, certificate, registration, or other means to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.
  - (2) "License" includes a certificate, registration, or any other authorization needed to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.
  - (3) "Licensing board" means any board, as defined in Section 22, the State Bar, and the Department of Real Estate.
- (f) The reports required under this section shall be filed on magnetic media or in other machine-readable form, according to standards furnished by the Franchise Tax Board.
- (g) Licensing boards shall provide to the Franchise Tax Board the information required by this section at a time that the Franchise Tax Board may require.
- (h) Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, the social security number and federal employer identification number furnished pursuant to this section shall not be deemed to be a public record and shall not be open to the public for inspection.
- (i) Any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a), or any former officer or employee or other individual who in the course of his or her employment or duty has or has had access to the information required to be furnished under this section, may not disclose or make known in any manner that information, except as provided in this section to the Franchise Tax Board or as provided in subdivision (k).
- (j) It is the intent of the Legislature in enacting this section to utilize the social security account number or federal employer identification number for the purpose of establishing the identification of persons affected by state tax laws and for purposes of compliance with Section 17520 of the Family Code and, to that end, the information furnished pursuant to this section shall be used exclusively for those purposes.
- (k) If the board utilizes a national examination to issue a license, and if a reciprocity agreement or comity exists between the State of California and the state requesting release of the social security number, any deputy, agent, clerk, officer, or employee of any licensing board described in subdivision (a) may release a social security number to an examination or licensing entity, only for the purpose of verification of licensure or examination status.

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- (l) For the purposes of enforcement of Section 17520 of the Family Code, and notwithstanding any other provision of law, any board, as defined in Section 22, and the State Bar and the Department of Real Estate shall at the time of issuance of the license require that each licensee provide the social security number of each individual listed on the license and any person who qualifies the license. For the purposes of this subdivision, “licensee” means any entity that is issued a license by any board, as defined in Section 22, the State Bar, the Department of Real Estate, and the Department of Motor Vehicles.

### **31. Compliance with judgment or order for support upon issuance or renewal of license**

- (a) As used in this section, “board” means any entity listed in Section 101, the entities referred to in Sections 1000 and 3600, the State Bar, the Department of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.
- (b) Each applicant for the issuance or renewal of a license, certificate, registration, or other means to engage in a business or profession regulated by a board who is not in compliance with a judgment or order for support shall be subject to Section 17520 of the Family Code.
- (c) “Compliance with a judgment or order for support” has the meaning given in paragraph (4) of subdivision (a) of Section 17520 of the Family Code.
- (d) Each licensee or applicant whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code shall be subject to Section 494.5.
- (e) Each application for a new license or renewal of a license shall indicate on the application that the law allows the State Board of Equalization and the Franchise Tax Board to share taxpayer information with a board and requires the licensee to pay his or her state tax obligation and that his or her license may be suspended if the state tax obligation is not paid.
- (f) For purposes of this section, “tax obligation” means the tax imposed under, or in accordance with, Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), Part 1.6 (commencing with Section 7251), Part 1.7 (commencing with Section 7280), Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

## **DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS**

### **CHAPTER 1. THE DEPARTMENT**

#### **114. Reinstatement of expired license of licensee serving in military**

- (a) Notwithstanding any other provision of this code, any licensee or registrant of any board, commission, or bureau within the department whose license expired while the licensee or registrant was on active duty as a member of the California National Guard or the United States Armed Forces,

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may, upon application, reinstate his or her license or registration without examination or penalty, provided that all of the following requirements are satisfied:

- (1) His or her license or registration was valid at the time he or she entered the California National Guard or the United States Armed Forces.
  - (2) The application for reinstatement is made while serving in the California National Guard or the United States Armed Forces, or not later than one year from the date of discharge from active service or return to inactive military status.
  - (3) The application for reinstatement is accompanied by an affidavit showing the date of entrance into the service, whether still in the service, or date of discharge, and the renewal fee for the current renewal period in which the application is filed is paid.
- (b) If application for reinstatement is filed more than one year after discharge or return to inactive status, the applicant, in the discretion of the licensing agency, may be required to pass an examination.
- (c) If application for reinstatement is filed and the licensing agency determines that the applicant has not actively engaged in the practice of his or her profession while on active duty, then the licensing agency may require the applicant to pass an examination.
- (d) Unless otherwise specifically provided in this code, any licensee or registrant who, either part time or full time, practices in this state the profession or vocation for which he or she is licensed or registered shall be required to maintain his or her license in good standing even though he or she is in military service.

For the purposes in this section, time spent by a licensee in receiving treatment or hospitalization in any veterans' facility during which he or she is prevented from practicing his or her profession or vocation shall be excluded from said period of one year.

### **114.3. Waiver of fees and requirements for “active duty” licensees**

- (a) Notwithstanding any other provision of law, every board, as defined in Section 22, within the department shall waive the renewal fees, continuing education requirements, and other renewal requirements as determined by the board, if any are applicable, for any licensee or registrant called to active duty as a member of the United States Armed Forces or the California National Guard if all of the following requirements are met:
- (1) The licensee or registrant possessed a current and valid license with the board at the time he or she was called to active duty.
  - (2) The renewal requirements are waived only for the period during which the licensee or registrant is on active duty service.
  - (3) Written documentation that substantiates the licensee or registrant's active duty service is provided to the board.



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- (b)(1) Except as specified in paragraph (2), the licensee or registrant shall not engage in any activities requiring a license during the period that the waivers provided by this section are in effect
  - (2) If the licensee or registrant will provide services for which he or she is licensed while on active duty, the board shall convert the license status to military active and no private practice of any type shall be permitted.
  - (c) In order to engage in any activities for which he or she is licensed once discharged from active duty, the licensee or registrant shall meet all necessary renewal requirements as determined by the board within six months from the licensee's or registrant's date of discharge from active duty service.
  - (d) After a licensee or registrant receives notice of his or her discharge date, the licensee or registrant shall notify the board of his or her discharge from active duty within 60 days of receiving his or her notice of discharge.
  - (e) A board may adopt regulations to carry out the provisions of this section.
  - (f) This section shall not apply to any board that has a similar license renewal waiver process statutorily authorized for that board.

## **115. Applicability of Section 114**

The provisions of Section 114 of this code are also applicable to a licensee or registrant whose license or registration was obtained while in the armed services.

### **115.5. Board required to expedite licensing process**

- (a) A board within the department shall expedite the licensure process for an applicant who meets both of the following requirements:
  - (1) Supplies evidence satisfactory to the board that the applicant is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders.
  - (2) Holds a current license in another state, district, or territory of the United States in the profession or vocation for which he or she seeks a license from the board.
- (b) A board may adopt regulations necessary to administer this section.

## **118. Effect of withdrawal of application; Effect of suspension, forfeiture, etc., of license**

- (a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

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- (b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.
- (c) As used in this section, “board” includes an individual who is authorized by any provision of this code to issue, suspend, or revoke a license, and “license” includes “certificate,” “registration,” and “permit.”

### **119. Misdemeanors pertaining to use of licenses**

Any person who does any of the following is guilty of a misdemeanor:

- (a) Displays or causes or permits to be displayed or has in his or her possession either of the following:
- (1) A canceled, revoked, suspended, or fraudulently altered license.
  - (2) A fictitious license or any document simulating a license or purporting to be or have been issued as a license.
- (b) Lends his or her license to any other person or knowingly permits the use thereof by another.
- (c) Displays or represents any license not issued to him or her as being his or her license.
- (d) Fails or refuses to surrender to the issuing authority upon its lawful written demand any license, registration, permit, or certificate which has been suspended, revoked, or canceled.
- (e) Knowingly permits any unlawful use of a license issued to him or her.
- (f) Photographs, photostats, duplicates, manufactures, or in any way reproduces any license or facsimile thereof in a manner that it could be mistaken for a valid license, or displays or has in his or her possession any such photograph, photostat, duplicate, reproduction, or facsimile unless authorized by this code.
- (g) Buys or receives a fraudulent, forged, or counterfeited license knowing that it is fraudulent, forged, or counterfeited. For purposes of this subdivision, “fraudulent” means containing any misrepresentation of fact.

As used in this section, “license” includes “certificate,” “permit,” “authority,” and “registration” or any other indicia giving authorization to engage in a business or profession regulated by this code or referred to in Section 1000 or 3600.

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### **121. Practice during period between renewal and receipt of evidence of renewal**

No licensee who has complied with the provisions of this code relating to the renewal of his or her license prior to expiration of such license shall be deemed to be engaged illegally in the practice of his or her business or profession during any period between such renewal and receipt of evidence of such renewal which may occur due to delay not the fault of the applicant.

As used in this section, “license” includes “certificate,” “permit,” “authorization,” and “registration,” or any other indicia giving authorization, by any agency, board, bureau, commission, committee, or entity within the Department of Consumer Affairs, to engage in a business or profession regulated by this code or by the board referred to in the Chiropractic Act or the Osteopathic Act.

### **122. Fee for issuance of duplicate certificate**

Except as otherwise provided by law, the department and each of the boards, bureaus, committees, and commissions within the department may charge a fee for the processing and issuance of a duplicate copy of any certificate of licensure or other form evidencing licensure or renewal of licensure. The fee shall be in an amount sufficient to cover all costs incident to the issuance of the duplicate certificate or other form but shall not exceed twenty-five dollars (\$25).

### **123. Conduct constituting subversion of licensing examination; Penalties and damages**

It is a misdemeanor for any person to engage in any conduct which subverts or attempts to subvert any licensing examination or the administration of an examination, including, but not limited to:

- (a) Conduct which violates the security of the examination materials; removing from the examination room any examination materials without authorization; the unauthorized reproduction by any means of any portion of the actual licensing examination; aiding by any means the unauthorized reproduction of any portion of the actual licensing examination; paying or using professional or paid examination-takers for the purpose of reconstructing any portion of the licensing examination; obtaining examination questions or other examination material, except by specific authorization either before, during, or after an examination; or using or purporting to use any examination questions or materials which were improperly removed or taken from any examination for the purpose of instructing or preparing any applicant for examination; or selling, distributing, buying, receiving, or having unauthorized possession of any portion of a future, current, or previously administered licensing examination.
- (b) Communicating with any other examinee during the administration of a licensing examination; copying answers from another examinee or permitting one's answers to be copied by another examinee; having in one's possession during the administration of the licensing examination any books, equipment, notes, written or printed materials, or data of any kind, other than the examination materials distributed, or otherwise authorized to be in one's possession during the examination; or impersonating any examinee or having an impersonator take the licensing examination on one's behalf.

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Nothing in this section shall preclude prosecution under the authority provided for in any other provision of law.

In addition to any other penalties, a person found guilty of violating this section, shall be liable for the actual damages sustained by the agency administering the examination not to exceed ten thousand dollars (\$10,000) and the costs of litigation.

- (c) If any provision of this section or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the section that can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

### **125. Misdemeanor offenses by licensees**

Any person, licensed under Division 1 (commencing with Section 100), Division 2 (commencing with Section 500 ), or Division 3 (commencing with Section 5000) is guilty of a misdemeanor and subject to the disciplinary provisions of this code applicable to him or her, who conspires with a person not so licensed to violate any provision of this code, or who, with intent to aid or assist that person in violating those provisions does either of the following:

- (a) Allows his or her license to be used by that person.
- (b) Acts as his or her agent or partner.

#### **125.3. Direction to licentiate violating licensing act to pay costs of investigation and enforcement**

- a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
- (b) In the case of a disciplined licentiate that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.
- (c) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.
- (d) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The finding of the administrative law judge with regard to costs shall not be reviewable by the board to increase the cost award. The board may reduce or eliminate the cost award, or remand to the administrative law judge if the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

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- (e) If an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.
  - (f) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.
  - (g)
    - (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license of any licentiate who has failed to pay all of the costs ordered under this section.
    - (2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.
  - (h) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs to be available upon appropriation by the Legislature.
  - (i) Nothing in this section shall preclude a board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.
  - (j) This section does not apply to any board if a specific statutory provision in that board's licensing act provides for recovery of costs in an administrative disciplinary proceeding.
  - (k) Notwithstanding the provisions of this section, the Medical Board of California shall not request nor obtain from a physician and surgeon, investigation and prosecution costs for a disciplinary proceeding against the licentiate. The board shall ensure that this subdivision is revenue neutral with regard to it and that any loss of revenue or increase in costs resulting from this subdivision is offset by an increase in the amount of the initial license fee and the biennial renewal fee, as provided in subdivision (e) of Section 2435.

### **125.5. Enjoining violations; restitution orders**

- (a) The superior court for the county in which any person has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. As used in this section, "board" includes commission, bureau, division, agency and a medical quality review committee.
- (b) The superior court for the county in which any person has engaged in any act which constitutes a violation of a chapter of this code administered or enforced by a board within the department may, upon a petition filed by the board with the approval of the director, order such person to make restitution to persons injured as a result of such violation.

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(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a) of this section, or subject to an order requiring restitution pursuant to subdivision (b), to reimburse the petitioning board for expenses incurred by the board in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to, and not a limitation on, the authority provided for in any other section of this code.

### **125.6. Unlawful discrimination by licensees**

Every person who holds a license under the provisions of this code is subject to disciplinary action under the disciplinary provisions of this code applicable to such person if, because of the applicant's race, color, sex, religion, ancestry, disability, marital status, or national origin, he or she refuses to perform the licensed activity or aids or incites the refusal to perform such licensed activity by another licensee, or if, because of the applicant's race, color, sex, religion, ancestry, disability, marital status, or national origin, he or she makes any discrimination, or restriction in the performance of the licensed activity.

Nothing in this section shall be interpreted to apply to discrimination by employers with regard to employees or prospective employees, nor shall this section authorize action against any club license issued pursuant to Article 4 (commencing with Section 23425) of Chapter 3 of Division 9 because of discriminatory membership policy. The presence of architectural barriers to an individual with physical disabilities which conform to applicable state or local building codes and regulations shall not constitute discrimination under this section. Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to permit an individual to participate in, or benefit from, the licensed activity of the licensee where that individual poses a direct threat to the health or safety of others. For this purpose, the term "direct threat" means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices, or procedures or by the provision of auxiliary aids and services.

"License," as used in this section, includes "certificate," "permit," "authority," and "registration" or any other indicia giving authorization to engage in a business or profession regulated by this code.

"Applicant," as used in this section means a person applying for licensed services provided by a person licensed under this code.

"Disability" means any of the following with respect to an individual:

- (a) A physical or mental impairment that substantially limits one or more of the major life activities of the individual.
- (b) A record of such an impairment.
- (c) Being regarded as having such an impairment.

### **125.7. Restraining orders**

In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under Division 2 (commencing with Section 500), or any initiative act referred to in

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that division, has engaged or is about to engage in any act that constitutes a violation of a chapter of this code administered or enforced by a board referred to in Division 2 (commencing with Section 500), may, upon a petition filed by the board and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with this section.

- (a) If the affidavits in support of the petition show that the licensee has engaged or is about to engage in acts or omissions constituting a violation of a chapter of this code and if the court is satisfied that permitting the licensee to continue to engage in the business or profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the licensee from engaging in the profession for which he or she is licensed.
- (b) The order may not be issued without notice to the licensee unless it appears from facts shown by the affidavits that serious injury would result to the public before the matter can be heard on notice.
- (c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.
- (d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed with the board pursuant to Section 11503 of the Government Code or, in the case of a licensee of the State Department of Health Services, with that department pursuant to Section 100171 of the Health and Safety Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. However, if the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date the decision is received from the administrative law judge, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at the time the board's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.
- (e) The remedy provided for in this section shall be in addition to, and not a limitation upon, the authority provided by any other provision of this code.

### **125.8. Temporary order restraining licensee engaged or about to engage in violation of law**

In addition to the remedy provided for in Section 125.5, the superior court for the county in which any licensee licensed under Division 3 (commencing with Section 5000) or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section 19000) of Division 8 has engaged or is about to engage in any act which constitutes a violation of a chapter of this code administered or enforced by a board referred to in Division 3 (commencing with Section 5000) or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section 19000) of Division 8 may, upon a petition filed by the board and accompanied by an affidavit or affidavits in support thereof and a memorandum of points and authorities, issue a temporary

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restraining order or other appropriate order restraining the licensee from engaging in the business or profession for which the person is licensed or from any part thereof, in accordance with the provisions of this section.

- (a) If the affidavits in support of the petition show that the licensee has engaged or is about to engage in acts or omissions constituting a violation of a chapter of this code and if the court is satisfied that permitting the licensee to continue to engage in the business or profession for which the license was issued will endanger the public health, safety, or welfare, the court may issue an order temporarily restraining the licensee from engaging in the profession for which he is licensed.
- (b) Such order may not be issued without notice to the licensee unless it appears from facts shown by the affidavits that serious injury would result to the public before the matter can be heard on notice.
- (c) Except as otherwise specifically provided by this section, proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.
- (d) When a restraining order is issued pursuant to this section, or within a time to be allowed by the superior court, but in any case not more than 30 days after the restraining order is issued, an accusation shall be filed with the board pursuant to Section 11503 of the Government Code. The accusation shall be served upon the licensee as provided by Section 11505 of the Government Code. The licensee shall have all of the rights and privileges available as specified in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code; however, if the licensee requests a hearing on the accusation, the board must provide the licensee with a hearing within 30 days of the request and a decision within 15 days of the date of the conclusion of the hearing, or the court may nullify the restraining order previously issued. Any restraining order issued pursuant to this section shall be dissolved by operation of law at such time the board's decision is subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure.

### **125.9. System for issuance of citations to licensees; Contents; Fines**

- (a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), any board, bureau, or commission within the department, the board created by the Chiropractic Initiative Act, and the Osteopathic Medical Board of California, may establish, by regulation, a system for the issuance to a licensee of a citation which may contain an order of abatement or an order to pay an administrative fine assessed by the board, bureau, or commission where the licensee is in violation of the applicable licensing act or any regulation adopted pursuant thereto.
- (b) The system shall contain the following provisions:
  - (1) Citations shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated.
  - (2) Whenever appropriate, the citation shall contain an order of abatement fixing a reasonable time for abatement of the violation.



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- (3) In no event shall the administrative fine assessed by the board, bureau, or commission exceed five thousand dollars (\$5,000) for each inspection or each investigation made with respect to the violation, or five thousand dollars (\$5,000) for each violation or count if the violation involves fraudulent billing submitted to an insurance company, the Medi-Cal program, or Medicare. In assessing a fine, the board, bureau, or commission shall give due consideration to the appropriateness of the amount of the fine with respect to factors such as the gravity of the violation, the good faith of the licensee, and the history of previous violations.
- (4) A citation or fine assessment issued pursuant to a citation shall inform the licensee that if he or she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board, bureau, or commission within 30 days of the date of issuance of the citation or assessment. If a hearing is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged. Hearings shall be held pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (5) Failure of a licensee to pay a fine within 30 days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the board, bureau, or commission. Where a citation is not contested and a fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.
- (c) The system may contain the following provisions:
- (1) A citation may be issued without the assessment of an administrative fine.
  - (2) Assessment of administrative fines may be limited to only particular violations of the applicable licensing act.
- (d) Notwithstanding any other provision of law, if a fine is paid to satisfy an assessment based on the finding of a violation, payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.
- (e) Administrative fines collected pursuant to this section shall be deposited in the special fund of the particular board, bureau, or commission.

### **128. Sale of equipment, supplies, or services for use in violation of licensing requirements**

Notwithstanding any other provision of law, it is a misdemeanor to sell equipment, supplies, or services to any person with knowledge that the equipment, supplies, or services are to be used in the performance of a service or contract in violation of the licensing requirements of this code.

The provisions of this section shall not be applicable to cash sales of less than one hundred dollars (\$100).

For the purposes of this section, “person” includes, but is not limited to, a company, partnership, limited liability company, firm, or corporation.

























































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- (C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents “before” and “after” views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any “before” and “after” views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same “before” and “after” results may not occur for all patients.
- (4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.
- (5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.
- (6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.
- (7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.
- (8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.
- (c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, “as low as,” “and up,” “lowest prices,” or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.
- (d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.
- (e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).
- (f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

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(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

- (1) A statement of the name of the practitioner.
- (2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.
- (3) A statement of office hours regularly maintained by the practitioner.
- (4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.
- (5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(i) For the purposes of this section, a dentist licensed under Chapter 4 (commencing with Section 1600) may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the practitioner has completed a specialty education program approved by the American Dental Association and the Commission on Dental Accreditation, is eligible for examination by a national specialty board recognized by the American Dental Association, or is a diplomate of a national specialty board recognized by the American Dental Association.

(ii) A dentist licensed under Chapter 4 (commencing with Section 1600) shall not represent to the public or advertise accreditation either in a specialty area of practice or by a board not meeting the requirements of clause (i) unless the dentist has attained membership in or otherwise been credentialed by an accrediting organization that is recognized by the board as a bona fide organization for that area of dental practice. In order to be recognized by the board as a bona fide accrediting organization for a specific area of dental practice other than a specialty area of dentistry authorized under clause (i), the organization shall condition membership or credentialing of its members upon all of the following:

- (I) Successful completion of a formal, full-time advanced education program that is affiliated with or sponsored by a university based dental school and is beyond the dental degree at a graduate or postgraduate level.
- (II) Prior didactic training and clinical experience in the specific area of dentistry that is greater than that of other dentists.
- (III) Successful completion of oral and written examinations based on psychometric principles.

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- (iii) Notwithstanding the requirements of clauses (i) and (ii), a dentist who lacks membership in or certification, diplomate status, other similar credentials, or completed advanced training approved as bona fide either by an American Dental Association recognized accrediting organization or by the board, may announce a practice emphasis in any other area of dental practice only if the dentist incorporates in capital letters or some other manner clearly distinguishable from the rest of the announcement, solicitation, or advertisement that he or she is a general dentist.
- (iv) A statement of certification by a practitioner licensed under Chapter 7 (commencing with Section 3000) shall only include a statement that he or she is certified or eligible for certification by a private or public board or parent association recognized by that practitioner's licensing board.
- (B) A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she limits his or her practice to specific fields, but shall not include a statement that he or she is certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, unless that board or association is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that physician and surgeon's licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty. A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" in reference to that certification, unless the physician and surgeon is also licensed under Chapter 4 (commencing with Section 1600) and the use of the term "board certified" in reference to that certification is in accordance with subparagraph (A). A physician and surgeon licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term "board certified" unless the full name of the certifying board is also used and given comparable prominence with the term "board certified" in the statement.

For purposes of this subparagraph, a "multidisciplinary board or association" means an educational certifying body that has a psychometrically valid testing process, as determined by the Medical Board of California, for certifying medical doctors and other health care professionals that is based on the applicant's education, training, and experience.

For purposes of the term "board certified," as used in this subparagraph, the terms "board" and "association" mean an organization that is an American Board of Medical Specialties member board, an organization with equivalent requirements approved by a physician and surgeon's licensing board, or an organization with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in a specialty or subspecialty.

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The Medical Board of California shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph. The fee shall not exceed the cost of administering this subparagraph. Notwithstanding Section 2 of Chapter 1660 of the Statutes of 1990, this subparagraph shall become operative July 1, 1993. However, an administrative agency or accrediting organization may take any action contemplated by this subparagraph relating to the establishment or approval of specialist requirements on and after January 1, 1991.

- (C) A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California may include a statement that he or she is certified or eligible or qualified for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, if that board or association meets one of the following requirements: (i) is approved by the Council on Podiatric Medical Education, (ii) is a board or association with equivalent requirements approved by the California Board of Podiatric Medicine, or (iii) is a board or association with the Council on Podiatric Medical Education approved postgraduate training programs that provide training in podiatric medicine and podiatric surgery. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by a board or association referred to in clause (i), (ii), or (iii) shall not use the term “board certified” unless the full name of the certifying board is also used and given comparable prominence with the term “board certified” in the statement. A doctor of podiatric medicine licensed under Chapter 5 (commencing with Section 2000) by the Medical Board of California who is certified by an organization other than a board or association referred to in clause (i), (ii), or (iii) shall not use the term “board certified” in reference to that certification.

For purposes of this subparagraph, a “multidisciplinary board or association” means an educational certifying body that has a psychometrically valid testing process, as determined by the California Board of Podiatric Medicine, for certifying doctors of podiatric medicine that is based on the applicant’s education, training, and experience. For purposes of the term “board certified,” as used in this subparagraph, the terms “board” and “association” mean an organization that is a Council on Podiatric Medical Education approved board, an organization with equivalent requirements approved by the California Board of Podiatric Medicine, or an organization with a Council on Podiatric Medical Education approved postgraduate training program that provides training in podiatric medicine and podiatric surgery.

The California Board of Podiatric Medicine shall adopt regulations to establish and collect a reasonable fee from each board or association applying for recognition pursuant to this subparagraph, to be deposited in the State Treasury in the Podiatry Fund, pursuant to Section 2499. The fee shall not exceed the cost of administering this subparagraph.

- (6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.
- (7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.
- (8) A statement of publications authored by the practitioner.

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- (9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.
  - (10) A statement of his or her affiliations with hospitals or clinics.
  - (11) A statement of the charges or fees for services or commodities offered by the practitioner.
  - (12) A statement that the practitioner regularly accepts installment payments of fees.
  - (13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.
  - (14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.
  - (15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.
  - (16) A statement, or statements, providing public health information encouraging preventative or corrective care.
  - (17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.
- (i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

- (j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

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## 652. Violations by licensees

Violation of this article in the case of a licensed person constitutes unprofessional conduct and grounds for suspension or revocation of his or her license by the board by whom he or she is licensed, or if a license has been issued in connection with a place of business, then for the suspension or revocation of the place of business in connection with which the violation occurs. The proceedings for suspension or revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and each board shall have all the powers granted therein. However, in the case of a licensee of the State Department of Health Services, the proceedings shall be conducted in accordance with Section 110171 of the Health and Safety Code. In addition, any violation constitutes a misdemeanor as to any and all persons offering, delivering, receiving, accepting, or participating in any rebate, refund, commission, preference, patronage dividend, unearned discount, or consideration, whether or not licensed under this division, and is punishable by imprisonment in the county jail not exceeding six months, by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both the imprisonment and fine.

## ARTICLE 7.5 HEALTH CARE PRACTITIONERS

### 680. Health care practitioner's disclosure of name and license status

- (a) Except as otherwise provided in this section, a health care practitioner shall disclose, while working, his or her name and practitioner's license status, as granted by this state, on a name tag in at least 18-point type. A health care practitioner in a practice or an office, whose license is prominently displayed, may opt to not wear a name tag. If a health care practitioner or a licensed clinical social worker is working in a psychiatric setting or in a setting that is not licensed by the state, the employing entity or agency shall have the discretion to make an exception from the name tag requirement for individual safety or therapeutic concerns. In the interest of public safety and consumer awareness, it shall be unlawful for any person to use the title "nurse" in reference to himself or herself and in any capacity, except for an individual who is a registered nurse or a licensed vocational nurse, or as otherwise provided in Section 2800. Nothing in this section shall prohibit a certified nurse assistant from using his or her title.
- (b) Facilities licensed by the State Department of Social Services, the State Department of Mental Health, or the State Department of Health Services shall develop and implement policies to ensure that health care practitioners providing care in those facilities are in compliance with subdivision (a). The State Department of Social Services, the State Department of Mental Health, and the State Department of Health Services shall verify through periodic inspections that the policies required pursuant to subdivision (a) have been developed and implemented by the respective licensed facilities.
- (c) For purposes of this article, "health care practitioner" means any person who engages in acts that are the subject of licensure or regulation under this division or under any initiative act referred to in this division.

### 680.5. Additional disclosures of specified information; Applicability

- (a)(1) A health care practitioner licensed under Division 2 (commencing with Section 500) shall communicate to a patient his or her name, state-granted practitioner license type, and highest level of academic degree, by one or both of the following methods:



(A) In writing at the patient's initial office visit.

(B) In a prominent display in an area visible to patients in his or her office.

(2) An individual licensed under Chapter 6 (commencing with Section 2700) or Chapter 9 (commencing with Section 4000) is not required to disclose the highest level of academic degree he or she holds.

(b) A person licensed under Chapter 5 (commencing with Section 2000) or under the Osteopathic Act, who is certified by (1) an American Board of Medical Specialties member board, (2) a board or association with requirements equivalent to a board described in paragraph (1) approved by that person's medical licensing authority, or (3) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in the person's specialty or subspecialty, shall disclose the name of the board or association by either method described in subdivision (a).

(c) A health care practitioner who chooses to disclose the information required by subdivisions (a) and (b) pursuant to subparagraph (A) of paragraph (1) of subdivision (a) shall present that information in at least 24-point type in the following format:

## HEALTH CARE PRACTITIONER INFORMATION

1. Name and license .....
2. Highest level of academic degree .....
3. Board certification (ABMS/MBC) .....

(d) This section shall not apply to the following health care practitioners:

(1) A person who provides professional medical services to enrollees of a health care service plan that exclusively contracts with a single medical group in a specific geographic area to provide or arrange for professional medical services for the enrollees of the plan.

(2) A person who works in a facility licensed under Section 1250 of the Health and Safety Code or in a clinical laboratory licensed under Section 1265.

(3) A person licensed under Chapter 3 (commencing with Section 1200), Chapter 7.5 (commencing with Section 3300), Chapter 8.3 (commencing with Section 3700), Chapter 11 (commencing with Section 4800), Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990.1), or Chapter 16 (commencing with Section 4999.10).

(e) A health care practitioner, who provides information regarding health care services on an Internet Web site that is directly controlled or administered by that health care practitioner or his or her office personnel, shall prominently display on that Internet Web site the information required by this section.

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### **683. Reporting name and license number of licensee prohibited from practicing**

- (a) A board shall report, within 10 working days, to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive by the licensee, or placed in another category that prohibits the licensee from practicing his or her profession. The purpose of the reporting requirement is to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.
- (b) "Board," as used in this section, means the Dental Board of California, the Medical Board of California, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, and the California Board of Occupational Therapy.
- (c) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

### **685. Citation of health care practitioner in default of educational loan**

- (a)(1) A board may cite and fine a currently licensed health care practitioner if he or she is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan.
  - (2) Each board that issues citations and imposes fines shall retain the money from these fines for deposit into its appropriate fund.
- (b) The board may deny a license to an applicant to be a health care practitioner or deny renewal of a license if he or she is in default on a United States Department of Health and Human Services education loan, including a Health Education Assistance Loan, until the default is cleared or until the applicant or licensee has made satisfactory repayment arrangements.
- (c) In determining whether to issue a citation and the amount of the fine to a health care practitioner or to deny a license to an applicant to be a health care practitioner or to deny the renewal of a license, a board shall take into consideration the following:
  - (1) The population served by the health care practitioner.
  - (2) The health care practitioner's economic status.
- (d) For purposes of this section, the following terms shall have the following meanings:
  - (1) "Board" means a licensing board or agency having jurisdiction of a licensee, but does not include the Board of Chiropractic Examiners.
  - (2) "Health care practitioner" means a person licensed or certified pursuant to this division or licensed pursuant to the Osteopathic Initiative Act.
- (e) This section shall become operative on July 1, 2003.

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## ARTICLE 9. INACTIVE LICENSE

### 701. Issuance

Each healing arts board referred to in this division shall issue, upon application and payment of the normal renewal fee, an inactive license or certificate to a current holder of an active license or certificate whose license or certificate is not suspended, revoked, or otherwise punitively restricted by that board.

As used in this article, “board” refers to any healing arts board, division, or examining committee which licenses or certifies health professionals.

### 702. Holder prohibited from engaging in active license activity

The holder of an inactive healing arts license or certificate issued pursuant to this article shall not engage in any activity for which an active license or certificate is required.

### 703. Renewal; Fees

An inactive healing arts license or certificate issued pursuant to this article shall be renewed during the same time period at which an active license or certificate is renewed. In order to renew a license or certificate issued pursuant to this article, the holder thereof need not comply with any continuing education requirement for renewal of an active license or certificate.

The renewal fee for a license or certificate in an active status shall apply also for renewal of a license or certificate in an inactive status.

### 704. Restoration to active status

In order for the holder of an inactive license or certificate issued pursuant to this article to restore his or her license or certificate to an active status, the holder of an inactive license or certificate shall comply with all the following:

- (a) Pay the renewal fee; provided, that the renewal fee shall be waived for a physician and surgeon who certifies to the Medical Board of California that license restoration is for the sole purpose of providing voluntary, unpaid service to a public agency, not-for-profit agency, institution, or corporation which provides medical services to indigent patients in medically underserved or critical-need population areas of the state.
- (b) If the board requires completion of continuing education for renewers of an active license or certificate, complete continuing education equivalent to that required for a single license renewal period.

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## ARTICLE 10.5. UNPROFESSIONAL CONDUCT

### 726. Commission of act of sexual abuse or misconduct with patient or client

The commission of any act of sexual abuse, misconduct, or relations with a patient, client, or customer constitutes unprofessional conduct and grounds for disciplinary action for any person licensed under this division, under any initiative act referred to in this division and under Chapter 17 (commencing with Section 9000) of Division 3.

This section shall not apply to sexual contact between a physician and surgeon and his or her spouse or person in an equivalent domestic relationship when that physician and surgeon provides medical treatment, other than psychotherapeutic treatment, to his or her spouse or person in an equivalent domestic relationship.

### 731. Violations at work as unprofessional conduct

- (a) Any person licensed, certified, registered, or otherwise subject to regulation pursuant to this division who engages in, or who aids or abets in, a violation of Section 266h, 266i, 315, 316, or 318 of, or subdivision (a) or (b) of Section 647 of, the Penal Code occurring in the work premises of, or work area under the direct professional supervision or control of, that person, shall be guilty of unprofessional conduct. The license, certification, or registration of that person shall be subject to denial, suspension, or revocation by the appropriate regulatory entity under this division.
- (b) In addition to any penalty provided under any other provision of law, a violation of subdivision (a) shall subject the person to a civil penalty in an amount not to exceed two thousand five hundred dollars (\$2,500) for the first offense, and not to exceed five thousand dollars (\$5,000) for each subsequent offense, which may be assessed and recovered in a civil action brought by any district attorney. If the action is brought by a district attorney, the penalty recovered shall be paid to the treasurer of the county in which the judgment was entered.

## ARTICLE 11. PROFESSIONAL REPORTING

### 800. Central files of licensees' individual historical records

- (a) The Medical Board of California, the Board of Psychology, the Dental Board of California, the Osteopathic Medical Board of California, the State Board of Chiropractic Examiners, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians, the State Board of Optometry, the Veterinary Medical Board, the Board of Behavioral Sciences, the Physical Therapy Board of California, the California State Board of Pharmacy, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, the California Board of Occupational Therapy, the Acupuncture Board, and the Physician Assistant Board shall each separately create and maintain a central file of the names of all persons who hold a license, certificate, or similar authority from that board. Each central file shall be created and maintained to provide an individual historical record for each licensee with respect to the following information:
  - (1) Any conviction of a crime in this or any other state that constitutes unprofessional conduct pursuant to the reporting requirements of Section 803.
  - (2) Any judgment or settlement requiring the licensee or his or her insurer to pay any amount of

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damages in excess of three thousand dollars (\$3,000) for any claim that injury or death was proximately caused by the licensee's negligence, error or omission in practice, or by rendering unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802.

- (3) Any public complaints for which provision is made pursuant to subdivision (b).
- (4) Disciplinary information reported pursuant to Section 805, including any additional exculpatory or explanatory statements submitted by the licensee pursuant to subdivision (f) of Section 805. If a court finds, in a final judgment, that the peer review resulting in the 805 report was conducted in bad faith and the licensee who is the subject of the report notifies the board of that finding, the board shall include that finding in the central file. For purposes of this paragraph, "peer review" has the same meaning as defined in Section 805.
- (5) Information reported pursuant to Section 805.01, including any explanatory or exculpatory information submitted by the licensee pursuant to subdivision (b) of that section.

- (b) Each board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in, or connected with, the performance of professional services by the licensee.

If a board, or division thereof, a committee, or a panel has failed to act upon a complaint or report within five years, or has found that the complaint or report is without merit, the central file shall be purged of information relating to the complaint or report.

Notwithstanding this subdivision, the Board of Psychology, the Board of Behavioral Sciences, and the Respiratory Care Board of California shall maintain complaints or reports as long as each board deems necessary.

- (c) The contents of any central file that are not public records under any other provision of law shall be confidential except that the licensee involved, or his or her counsel or representative, shall have the right to inspect and have copies made of his or her complete file except for the provision that may disclose the identity of an information source. For the purposes of this section, a board may protect an information source by providing a copy of the material with only those deletions necessary to protect the identity of the source or by providing a comprehensive summary of the substance of the material. Whichever method is used, the board shall ensure that full disclosure is made to the subject of any personal information that could reasonably in any way reflect or convey anything detrimental, disparaging, or threatening to a licensee's reputation, rights, benefits, privileges, or qualifications, or be used by a board to make a determination that would affect a licensee's rights, benefits, privileges, or qualifications. The information required to be disclosed pursuant to Section 803.1 shall not be considered among the contents of a central file for the purposes of this subdivision.

The licensee may, but is not required to, submit any additional exculpatory or explanatory statement or other information that the board shall include in the central file.

Each board may permit any law enforcement or regulatory agency when required for an investigation of

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unlawful activity or for licensing, certification, or regulatory purposes to inspect and have copies made of that licensee's file, unless the disclosure is otherwise prohibited by law.

These disclosures shall effect no change in the confidential status of these records.

### **801. Insurers' reports of malpractice settlement or arbitration awards; Insured's written consent to settlement**

- (a) Except as provided in Section 801.01 and subdivisions (b), (c), and (d) of this section, every insurer providing professional liability insurance to a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.
- (b) Every insurer providing professional liability insurance to a person licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10) shall send a complete report to the Board of Behavioral Sciences as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or by his or her rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.
- (c) Every insurer providing professional liability insurance to a dentist licensed pursuant to Chapter 4 (commencing with Section 1600) shall send a complete report to the Dental Board of California as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.
- (d) Every insurer providing liability insurance to a veterinarian licensed pursuant to Chapter 11 (commencing with Section 4800) shall send a complete report to the Veterinary Medical Board of any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional service. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.
- (e) The insurer shall notify the claimant, or if the claimant is represented by counsel, the insurer shall notify the claimant's attorney, that the report required by subdivision (a), (b), or (c) has been sent to the agency. If the attorney has not received this notice within 45 days after the settlement was reduced to writing and signed by all of the parties, the arbitration award was served on the parties, or the date of entry of the civil judgment, the attorney shall make the report to the agency.

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- (f) Notwithstanding any other provision of law, no insurer shall enter into a settlement without the written consent of the insured, except that this prohibition shall not void any settlement entered into without that written consent. The requirement of written consent shall only be waived by both the insured and the insurer. This section shall only apply to a settlement on a policy of insurance executed or renewed on or after January 1, 1971.

**801.1. Report of settlement or arbitration award where state or local government acts as a self-insurer in cases of negligence, error, omission in practice, or rendering of unauthorized services resulting in death or personal injury**

- (a) Every state or local governmental agency that self-insures a person who holds a license, certificate, or similar authority from or under any agency specified in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) shall send a complete report to that agency as to any settlement or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.
- (b) Every state or local governmental agency that self-insures a person licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10) shall send a complete report to the Board of Behavioral Science Examiners as to any settlement or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by that person's negligence, error, or omission in practice, or rendering of unauthorized professional services. The report shall be sent within 30 days after the written settlement agreement has been reduced to writing and signed by all parties thereto or within 30 days after service of the arbitration award on the parties.

**802. Reports of malpractice settlements or arbitration awards involving uninsured licensees; Penalties for noncompliance**

- (a) Every settlement, judgment, or arbitration award over three thousand dollars (\$3,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a person who holds a license, certificate, or other similar authority from an agency specified in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200) or Chapter 5 (commencing with Section 2000) or the Osteopathic Initiative Act) who does not possess professional liability insurance as to that claim shall, within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties, be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if the person is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the

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claimant (or if the claimant is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make the complete report. Failure of the licensee or claimant (or, if represented by counsel, their counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars (\$50) or more than five hundred dollars (\$500). Knowing and intentional failure to comply with this section or conspiracy or collusion not to comply with this section, or to hinder or impede any other person in the compliance, is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

- (b) Every settlement, judgment, or arbitration award over ten thousand dollars (\$10,000) of a claim or action for damages for death or personal injury caused by negligence, error or omission in practice, or by the unauthorized rendering of professional services, by a marriage and family therapist, a clinical social worker, or a professional clinical counselor licensed pursuant to Chapter 13 (commencing with Section 4980), Chapter 14 (commencing with Section 4990), or Chapter 16 (commencing with Section 4999.10), respectively, who does not possess professional liability insurance as to that claim shall within 30 days after the written settlement agreement has been reduced to writing and signed by all the parties thereto or 30 days after service of the judgment or arbitration award on the parties be reported to the agency that issued the license, certificate, or similar authority. A complete report shall be made by appropriate means by the person or his or her counsel, with a copy of the communication to be sent to the claimant through his or her counsel if he or she is so represented, or directly if he or she is not. If, within 45 days of the conclusion of the written settlement agreement or service of the judgment or arbitration award on the parties, counsel for the claimant (or if he or she is not represented by counsel, the claimant himself or herself) has not received a copy of the report, he or she shall himself or herself make a complete report. Failure of the marriage and family therapist, clinical social worker, or professional clinical counselor or claimant (or, if represented by counsel, his or her counsel) to comply with this section is a public offense punishable by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). Knowing and intentional failure to comply with this section, or conspiracy or collusion not to comply with this section or to hinder or impede any other person in that compliance, is a public offense punishable by a fine of not less than five thousand dollars (\$5,000) nor more than fifty thousand dollars (\$50,000).

### **803. Report of crime or liability for death or injury on part of specified licensees to licensing agency**

- (a) Except as provided in subdivision (b), within 10 days after a judgment by a court of this state that a person who holds a license, certificate, or other similar authority from the Board of Behavioral Sciences or from an agency mentioned in subdivision (a) of Section 800 (except a person licensed pursuant to Chapter 3 (commencing with Section 1200)) has committed a crime, or is liable for any death or personal injury resulting in a judgment for an amount in excess of thirty thousand dollars (\$30,000) caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license, certificate, or other similar authority.



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- (b) For purposes of a physician and surgeon, osteopathic physician and surgeon, doctor of podiatric medicine, or physician assistant, who is liable for any death or personal injury resulting in a judgment of any amount caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license.

### **803.5. Notice to board of filing charging licensee with felony; Transmittal of copy of conviction**

- (a) The district attorney, city attorney, or other prosecuting agency shall notify the Medical Board of California, the Osteopathic Medical Board of California, the California Board of Podiatric Medicine, the State Board of Chiropractic Examiners, the Physician Assistant Board, or other appropriate allied health board, and the clerk of the court in which the charges have been filed, of any filings against a licensee of that board charging a felony immediately upon obtaining information that the defendant is a licensee of the board. The notice shall identify the licensee and describe the crimes charged and the facts alleged. The prosecuting agency shall also notify the clerk of the court in which the action is pending that the defendant is a licensee, and the clerk shall record prominently in the file that the defendant holds a license from one of the boards described above.
- (b) The clerk of the court in which a licensee of one of the boards is convicted of a crime shall, within 48 hours after the conviction, transmit a certified copy of the record of conviction to the applicable board.

## **ARTICLE 12. INSURANCE FRAUD**

### **810. Grounds for disciplinary action against health care professional**

- (a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:
- (1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.
  - (2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.
- (b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.
- (c) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

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## ARTICLE 12.5 MENTAL ILLNESS OR PHYSICAL ILLNESS

### 820. Examination of licentiate for mental illness or physical illness affecting competency

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

### 821. Effective of licentiate's failure to comply with order for examination

The licentiate's failure to comply with an order issued under Section 820 shall constitute grounds for the suspension or revocation of the licentiate's certificate or license.

### 822. Action by Licensing Agency

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

### 823. Reinstatement of licentiate

Notwithstanding any other provisions of law, reinstatement of a licentiate against whom action has been taken pursuant to Section 822 shall be governed by the procedures in this article. In reinstating a certificate or license which has been revoked or suspended under Section 822, the licensing agency may impose terms and conditions to be complied with by the licentiate after the certificate or license has been reinstated. The authority of the licensing agency to impose terms and conditions includes, but is not limited to, the following:

- (a) Requiring the licentiate to obtain additional professional training and to pass an examination upon the completion of the training.

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- (b) Requiring the licentiate to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of his or her profession.
  - (c) Requiring the licentiate to submit to a complete diagnostic examination by one or more physicians and surgeons or psychologists appointed by the licensing agency. If the licensing agency requires the licentiate to submit to such an examination, the licensing agency shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons or psychologists of the licentiate's choice.
  - (d) Requiring the licentiate to undergo continuing treatment.
  - (e) Restricting or limiting the extent, scope or type of practice of the licentiate.

#### **824. Options open to licensing agency when proceeding against licentiate**

The licensing agency may proceed against a licentiate under either Section 820, or 822, or under both sections.

#### **826. Format of proceedings under Sections 821 and 822; Rights and powers**

The proceedings under Sections 821 and 822 shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the licensing agency and the licentiate shall have all the rights and powers granted therein.

#### **827. Authority of licensing agency to convene in closed session**

Notwithstanding the provisions of Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, relating to public meetings, the licensing agency may convene in closed session to consider any evidence relating to the licentiate's mental or physical illness obtained pursuant to the proceedings under Section 820. The licensing agency shall only convene in closed session to the extent that it is necessary to protect the privacy of a licentiate.

#### **828. Determination of insufficient evidence to bring action against licentiate; Effect on records of proceedings**

If the licensing agency determines, pursuant to proceedings conducted under Section 820, that there is insufficient evidence to bring an action against the licentiate pursuant to Section 822, then all licensing agency records of the proceedings, including the order for the examination, investigative reports, if any, and the report of the physicians and surgeons or psychologists, shall be kept confidential and are not subject to discovery or subpoena. If no further proceedings are conducted to determine the licentiate's fitness to practice during a period of five years from the date of the determination by the licensing agency of the proceeding pursuant to Section 820, then the licensing agency shall purge and destroy all records pertaining to the proceedings. If new proceedings are instituted during the five-year period against the licentiate by the licensing agency, the records, including the report of the physicians and surgeons or psychologists, may be used in the proceedings and shall be available to the respondent pursuant to the provisions of Section 11507.6 of the Government Code.

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## CHAPTER 1.5 EXEMPTION FROM LICENSURE

### 900. Requirements for exemption; Immunity from liability

- (a) Nothing in this division applies to a health care practitioner licensed in another state or territory of the United States who offers or provides health care for which he or she is licensed, if the health care is provided only during a state of emergency as defined in subdivision(b) of Section 8558 of the Government Code, which emergency overwhelms the response capabilities of California health care practitioners and only upon the request of the Director of the Emergency Medical Services Authority.
- (b) The director shall be the medical control and shall designate the licensure and specialty health care practitioners required for the specific emergency and shall designate the areas to which they may be deployed.
- (c) Health care practitioners shall provide, upon request, a valid copy of a professional license and a photograph identification issued by the state in which the practitioner holds licensure before being deployed by the director.
- (d) Health care practitioners deployed pursuant to this chapter shall provide the appropriate California licensing authority with verification of licensure upon request.
- (e) Health care practitioners providing health care pursuant to this chapter shall have immunity from liability for services rendered as specified in Section 8659 of the Government Code.
- (f) For the purposes of this chapter, “health care practitioner” means any person who engages in acts which are the subject of licensure or regulation under this division or under any initiative act referred to in this division.
- (g) For purposes of this chapter, “director” means the Director of the Emergency Medical Services Authority who shall have the powers specified in Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

## CHAPTER 5.6 OCCUPATIONAL THERAPY

### 2570. Citation of chapter

This chapter may be cited as the Occupational Therapy Practice Act.

#### 2570.1. Legislative findings

The Legislature finds and declares that the practice of occupational therapy in California affects the public health, safety, and welfare and there is a necessity for that practice to be subject to regulation and control.

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## 2570.2. Definitions

As used in this chapter, unless the context requires otherwise:

- (a) “Appropriate supervision of an aide” means that the responsible occupational therapist or occupational therapy assistant shall provide direct in-sight supervision when the aide is providing delegated client-related tasks and shall be readily available at all times to provide advice or instruction to the aide. The occupational therapist or occupational therapy assistant is responsible for documenting the client’s record concerning the delegated client-related tasks performed by the aide.
- (b) “Aide” means an individual who provides supportive services to an occupational therapist and who is trained by an occupational therapist to perform, under appropriate supervision, delegated, selected client and nonclient-related tasks for which the aide has demonstrated competency. An occupational therapist licensed pursuant to this chapter may utilize the services of one aide engaged in patient-related tasks to assist the occupational therapist in his or her practice of occupational therapy.
- (c) “Association” means the Occupational Therapy Association of California or a similarly constituted organization representing occupational therapists in this state.
- (d) “Board” means the California Board of Occupational Therapy.
- (e) “Examination” means an entry level certification examination for occupational therapists and occupational therapy assistants administered by the National Board for Certification in Occupational Therapy or by another nationally recognized credentialing body.
- (f) “Good standing” means that the person has a current, valid license to practice occupational therapy or assist in the practice of occupational therapy and has not been disciplined by the recognized professional certifying or standard-setting body within five years prior to application or renewal of the person’s license.
- (g) “Occupational therapist” means an individual who meets the minimum education requirements specified in Section 2570.6 and is licensed pursuant to the provisions of this chapter and whose license is in good standing as determined by the board to practice occupational therapy under this chapter. Only the occupational therapist is responsible for the occupational therapy assessment of a client, and the development of an occupational therapy plan of treatment.
- (h) “Occupational therapy assistant” means an individual who is licensed pursuant to the provisions of this chapter, who is in good standing as determined by the board, and based thereon, who is qualified to assist in the practice of occupational therapy under this chapter, and who works under the appropriate supervision of a licensed occupational therapist.
- (i) “Occupational therapy services” means the services of an occupational therapist or the services of an occupational therapy assistant under the appropriate supervision of an occupational therapist.
- (j) “Person” means an individual, partnership, unincorporated organization, or corporation.
- (k) “Practice of occupational therapy” means the therapeutic use of purposeful and meaningful goal-directed activities (occupations) which engage the individual’s body and mind in meaningful,

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organized, and self-directed actions that maximize independence, prevent or minimize disability, and maintain health. Occupational therapy services encompass occupational therapy assessment, treatment, education of, and consultation with, individuals who have been referred for occupational therapy services subsequent to diagnosis of disease or disorder (or who are receiving occupational therapy services as part of an Individualized Education Plan (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA)).

Occupational therapy assessment identifies performance abilities and limitations that are necessary for self-maintenance, learning, work, and other similar meaningful activities. Occupational therapy treatment is focused on developing, improving, or restoring functional daily living skills, compensating for and preventing dysfunction, or minimizing disability. Occupational therapy techniques that are used for treatment involve teaching activities of daily living (excluding speech-language skills); designing or fabricating selective temporary orthotic devices, and applying or training in the use of assistive technology or orthotic and prosthetic devices (excluding gait training). Occupational therapy consultation provides expert advice to enhance function and quality of life. Consultation or treatment may involve modification of tasks or environments to allow an individual to achieve maximum independence. Services are provided individually, in groups, or through social groups.

- (l) “Hand therapy” is the art and science of rehabilitation of the hand, wrist, and forearm requiring comprehensive knowledge of the upper extremity and specialized skills in assessment and treatment to prevent dysfunction, restore function, or reverse the advancement of pathology. This definition is not intended to prevent an occupational therapist practicing hand therapy from providing other occupational therapy services authorized under this act in conjunction with hand therapy.
- (m) “Physical agent modalities” means techniques that produce a response in soft tissue through the use of light, water, temperature, sound, or electricity. These techniques are used as adjunctive methods in conjunction with, or in immediate preparation for, occupational therapy services.

### **2570.3. Licensing requirement**

- (a) No person shall practice occupational therapy or hold himself or herself out as an occupational therapist or as being able to practice occupational therapy, or to render occupational therapy services in this state unless he or she is licensed as an occupational therapist under the provisions of this chapter. No person shall hold himself or herself out as an occupational therapy assistant or work as an occupational therapy assistant under the supervision of an occupational therapist unless he or she is licensed as an occupational therapy assistant under the provisions of this chapter.
- (b) Only an individual may be licensed under this chapter.
- (c) Nothing in this chapter shall be construed as authorizing an occupational therapist to practice physical therapy, as defined in Section 2620; speech-language pathology or audiology, as defined in Section 2530.2; nursing, as defined in Section 2725; psychology, as defined in Section 2903; or spinal manipulation or other forms of healing, except as authorized by this section.
- (d) An occupational therapist may provide advanced practices if the therapist has the knowledge, skill, and ability to do so and has demonstrated to the satisfaction of the board that he or she has met educational training and competency requirements. These advanced practices include the following:

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- (1) Hand therapy.
  - (2) The use of physical agent modalities.
  - (3) Swallowing assessment, evaluation, or intervention.
- (e) An occupational therapist providing hand therapy services shall demonstrate to the satisfaction of the board that he or she has completed post professional education and training in all of the following areas:
- (1) Anatomy of the upper extremity and how it is altered by pathology.
  - (2) Histology as it relates to tissue healing and the effects of immobilization and mobilization on connective tissue.
  - (3) Muscle, sensory, vascular, and connective tissue physiology.
  - (4) Kinesiology of the upper extremity, such as biomechanical principles of pulleys, intrinsic and extrinsic muscle function, internal forces of muscles, and the effects of external forces.
  - (5) The effects of temperature and electrical currents on nerve and connective tissue.
  - (6) Surgical procedures of the upper extremity and their postoperative course.
- (f) An occupational therapist using physical agent modalities shall demonstrate to the satisfaction of the board that he or she has completed post professional education and training in all of the following areas:
- (1) Anatomy and physiology of muscle, sensory, vascular, and connective tissue in response to the application of physical agent modalities.
  - (2) Principles of chemistry and physics related to the selected modality.
  - (3) Physiological, neurophysiological, and electrophysiological changes that occur as a result of the application of a modality.
  - (4) Guidelines for the preparation of the patient, including education about the process and possible outcomes of treatment.
  - (5) Safety rules and precautions related to the selected modality.
  - (6) Methods for documenting immediate and long-term effects of treatment.
  - (7) Characteristics of the equipment, including safe operation, adjustment, indications of malfunction, and care.
- (g) An occupational therapist in the process of achieving the education, training, and competency requirements established by the board for providing hand therapy or using physical agent modalities may practice these techniques under the supervision of an occupational therapist who has already met the requirements established by the board, a physical therapist, or a physician and surgeon.

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- (h) The board shall develop and adopt regulations regarding the educational training and competency requirements for advanced practices in collaboration with the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, and the Physical Therapy Board of California.
- (i) Nothing in this chapter shall be construed as authorizing an occupational therapist to seek reimbursement for services other than for the practice of occupational therapy as defined in this chapter.
- (j) “Supervision of an occupational therapy assistant” means that the responsible occupational therapist shall at all times be responsible for all occupational therapy services provided to the client. The occupational therapist who is responsible for appropriate supervision shall formulate and document in each client’s record, with his or her signature, the goals and plan for that client, and shall make sure that the occupational therapy assistant assigned to that client functions under appropriate supervision. As part of the responsible occupational therapist’s appropriate supervision, he or she shall conduct at least weekly review and inspection of all aspects of occupational therapy services by the occupational therapy assistant.
- (1) The supervising occupational therapist has the continuing responsibility to follow the progress of each patient, provide direct care to the patient, and to assure that the occupational therapy assistant does not function autonomously.
  - (2) An occupational therapist shall not supervise more occupational therapy assistants, at any one time, than can be appropriately supervised in the opinion of the board. Two occupational therapy assistants shall be the maximum number of occupational therapy assistants supervised by an occupational therapist at any one time, but the board may permit the supervision of a greater number by an occupational therapist if, in the opinion of the board, there would be adequate supervision and the public’s health and safety would be served. In no case shall the total number of occupational therapy assistants exceed twice the number of occupational therapists regularly employed by a facility at any one time.
- (k) The amendments to subdivisions (d), (e), (f), and (g) relating to advanced practices, that are made by the act adding this subdivision, shall become operative no later than January 1, 2004, or on the date the board adopts regulations pursuant to subdivision (h), whichever first occurs.

#### **2570.4 Persons exempt from licensure**

Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of any of the following persons:

- (a) Any person licensed or otherwise recognized in this state by any other law or regulation when that person is engaged in the profession or occupation for which he or she is licensed or otherwise recognized.
- (b) Any person pursuing a supervised course of study leading to a degree or certificate in occupational therapy at an accredited educational program, if the person is designated by a title that clearly indicates his or her status as a student or trainee.



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- (c) Any person fulfilling the supervised fieldwork experience requirements of subdivision (c) of Section 2570.6, if the experience constitutes a part of the experience necessary to meet the requirement of that provision.
  - (d) Any person performing occupational therapy services in the state if all of the following apply:
    - (1) An application for licensure as an occupational therapist or an occupational therapy assistant has been filed with the board pursuant to Section 2570.6 and an application for a license in this state has not been previously denied.
    - (2) The person possesses a current, active, and non-restricted license to practice occupational therapy under the laws of another state that the board determines has licensure requirements at least as stringent as the requirements of this chapter.
    - (3) Occupational therapy services are performed in association with an occupational therapist licensed under this chapter, and for no more than 60 days from the date on which the application for licensure was filed with the board.
  - (e) Any person employed as an aide subject to the supervision requirements of this section.

#### **2570.5. Limited permit**

- (a) A limited permit may be granted to any person who has completed the education and experience requirements of this chapter.
- (b) A person who meets the qualifications to be admitted to the examination for licensure under this chapter and is waiting to take the examination or awaiting the announcement of the results of the examination, according to the application requirements for a limited permit, may practice as an occupational therapist or as an occupational therapy assistant under the direction and appropriate supervision of an occupational therapist duly licensed under this chapter. If that person fails to pass the examination during the initial eligibility period, all privileges under this section shall automatically cease upon due notice to the applicant of that failure and may not be renewed.
- (c) A limited permit shall be subject to other requirements set forth in rules adopted by the board.

#### **2570.6. Filing of application**

An applicant applying for a license as an occupational therapist as an occupational therapy assistant shall file with the board a written application provided by the board, showing to the satisfaction of the board that he or she meets all of the following requirements:

- (a) That the applicant is in good standing and has not committed acts or crimes constituting grounds for denial of a license under Section 480.
- (b) (1) That the applicant has successfully completed the academic requirements of an educational program for occupational therapists or occupational therapy assistants that is approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or accredited or approved by the American Occupational Therapy Association's (AOTA) predecessor organization, or approved by AOTA's Career Mobility Program.

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(2) The curriculum of an educational program for occupational therapists shall contain the content required by the ACOTE accreditation standards, or as approved by AOTA's predecessor organization, or as approved by AOTA's Career Mobility Program, including all of the following subjects:

- (A) Biological, behavioral, and health sciences.
- (B) Structure and function of the human body, including anatomy, kinesiology, physiology, and the neurosciences.
- (C) Human development throughout the lifespan.
- (D) Human behavior in the context of sociocultural systems.
- (E) Etiology, clinical course, management, and prognosis of disease processes and traumatic injuries, and the effects of those conditions on human functioning.
- (F) Occupational therapy theory, practice, and processes.

(3) The curriculum of an educational program for occupational therapy assistants shall contain the content required by the ACOTE accreditation standards, or as approved or accredited by AOTA's predecessor organization, including all of the following subjects:

- (A) Biological, behavioral, and health sciences.
- (B) Structure and function of the normal human body.
- (C) Human development.
- (D) Conditions commonly referred to occupational therapists.
- (E) Occupational therapy principles and skills.

(c)(1) For an applicant who is a graduate of an occupational therapy or occupational therapy assistant educational program who is unable to provide evidence of having met the requirements of paragraph (2) or (3) of subdivision (b), he or she may demonstrate passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraph (2) or (3) of subdivision (b).

(2) For an applicant who completed AOTA's Career Mobility Program, he or she shall demonstrate participation in the program and passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having successfully satisfied the requirements of paragraphs (1) and (2) of subdivision (b).

(d) That the applicant has successfully completed a period of supervised fieldwork experience approved by the board and arranged by a recognized educational institution where he or she met the academic requirements of subdivision (b) or (c) or arranged by a nationally recognized professional association. The fieldwork requirements for applicants applying for licensure as an occupational therapist or certification as an occupational therapy assistant shall be consistent with the requirements of the

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ACOTE accreditation standards, or AOTA's predecessor organization, or AOTA's Career Mobility Program, that were in effect when the applicant completed his or her educational program.

- (e) That the applicant has passed an examination as provided in Section 2570.7.
- (f) That the applicant, at the time of application, is a person over 18 years of age, is not addicted to alcohol or any controlled substance, and has not committed acts or crimes constituting grounds for denial of licensure under Section 480.

### **2570.7. Examinations**

- (a) An applicant who has satisfied the requirements of Section 2570.6 may apply for examination for licensure in a manner prescribed by the board. Subject to the provisions of this chapter, an applicant who fails an examination may apply for reexamination.
- (b) Each applicant for licensure shall successfully complete the entry level certification examination for occupational therapists or occupational therapy assistants, such as the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association. The examination shall be appropriately validated. Each applicant shall be examined by written examination to test his or her knowledge of the basic and clinical sciences relating to occupational therapy, occupational therapy techniques and methods, and any other subjects that the board may require to determine the applicant's fitness to practice under this chapter.
- (c) Applicants for licensure shall be examined at a time and place and under that supervision as the board may require.

### **2570.8. Reliance on information posted on the Internet Website**

For the purposes of verifying a license issued under this chapter, a person may rely on the licensure information posted on the board's Internet Web site, which includes the issuance and expiration dates of a license issued by the board.

### **2570.9. Issuance of license**

The board shall issue a license to any applicant who meets the requirements of this chapter, including the payment of the prescribed licensure or renewal fee, and who meets any other requirement in accordance with applicable state law.

### **2570.10. Renewal of license**

- (a) Any license issued under this chapter shall be subject to renewal as prescribed by the board and shall expire unless renewed in that manner. The board may provide for the late renewal of a license as provided for in Section 163.5.
- (b) In addition to any other qualifications and requirements for licensure renewal, the board may by rule establish and require the satisfactory completion of continuing competency requirements as a condition of renewal of a license.

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### **2570.11. Inactive status**

Upon a written request, the board may grant inactive status to an occupational therapist or occupational therapy assistant who is in good standing, who meets the requirements of Section 462.

### **2570.13. Rules for supervision of assistants and aides**

- (a) Consistent with this section, subdivisions (a), (b), and (c) of Section 2570.2, and accepted professional standards, the board shall adopt rules necessary to assure appropriate supervision of occupational therapy assistants and aides.
- (b) An occupational therapy assistant may practice only under the supervision of an occupational therapist who is authorized to practice occupational therapy in this state.
- (c) An aide providing delegated, client-related supportive services shall require continuous and direct supervision by an occupational therapist or occupational therapy assistant.

### **2570.14. Procedure for applicant not engaged in practice for five years**

An initial applicant who has not been actively engaged in the practice of occupational therapy within the past five years shall provide to the board, in addition to the requirements for licensure under Section 2570.6, any of the following:

- (a) Evidence of continued competency as referred to in subdivision (b) of Section 2570.10 for the previous two-year period.
- (b) Evidence of having completed the entry-level certification examination as described in subdivision (b) of Section 2570.7 within the previous two-year period.

### **2570.15. Therapists and assistants trained outside of United States**

Occupational therapists and occupational therapy assistants trained outside of the United States and its possessions shall be required to satisfy the examination requirements of Section 2570.7. The board shall require that these applicants have completed educational and supervised fieldwork requirements substantially equal to those contained in Section 2570.6, before taking the examination.

### **2570.16. Fees**

Initial license and renewal fees shall be established by the board in an amount that does not exceed a ceiling of one hundred fifty dollars (\$150) per year. The board shall establish the following additional fees:

- (a) An application fee not to exceed fifty dollars (\$50).
- (b) A late renewal fee as provided for in Section 2570.10.
- (c) A limited permit fee.
- (d) A fee to collect fingerprints for criminal history record checks.

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### **2570.17. Issuance of retired license**

- (a) The board shall issue, upon application and payment of a twenty-five dollar (\$25) fee, a retired license to an occupational therapist or an occupational therapy assistant who holds a license that is current and active, or capable of being renewed pursuant to Section 2570.10, and whose license is not suspended, revoked, or otherwise restricted by the board or subject to discipline under this chapter.
- (b) The holder of a retired license issued pursuant to this section shall not engage in any activity for which an active license is required. An occupational therapist holding a retired license shall be permitted to use the title “occupational therapist, retired” or “retired occupational therapist.” An occupational therapy assistant holding a retired license shall be permitted to use the title “occupational therapy assistant, retired” or “retired occupational therapy assistant.” The designation of retired shall not be abbreviated in any way.
- (c) The holder of a retired license shall not be required to renew that license.
- (d) In order for the holder of a retired license issued pursuant to this section to restore his or her license, he or she shall comply with Section 2570.14.

### **2570.18. Representation to public**

- (a) A person shall not represent to the public by title, by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this state, unless authorized to practice occupational therapy under this chapter.
- (b) Unless licensed to practice as an occupational therapist under this chapter, a person may not use the professional abbreviations “O.T.,” “O.T.R.,” or “O.T.R./L.,” or “Occupational Therapist,” or “Occupational Therapist Registered,” or any other words, letters, or symbols with the intent to represent that the person practices or is authorized to practice occupational therapy.
- (c) Unless licensed to assist in the practice of occupational therapy as an occupational therapy assistant under this chapter, a person may not use the professional abbreviations “O.T.A.,” “O.T.A./L.,” “C.O.T.A.,” “C.O.T.A./L.,” or “Occupational Therapy Assistant,” “Licensed Occupational Therapy Assistant,” or any other words, letters, or symbols, with the intent to represent that the person assists in, or is authorized to assist in, the practice of occupational therapy as an occupational therapy assistant.
- (d) The unauthorized practice or representation as an occupational therapist or as an occupational therapy assistant constitutes an unfair business practice under Section 17200 and false and misleading advertising under Section 17500.

### **2570.185. Patient records**

- (a) An occupational therapist shall document his or her evaluation, goals, treatment plan, and summary of treatment in the patient record.

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- (b) An occupational therapy assistant shall document the services provided in the patient record.
  - (c) Occupational therapists and occupational therapy assistants shall document and sign the patient record legibly.
  - (d) Patient records shall be maintained for a period of no less than seven years following the discharge of the patient, except that the records of unemancipated minors shall be maintained at least one year after the minor has reached the age of 18 years, and not in any case less than seven years.

### **2570.19. California Board of Occupational Therapy; Occupational Therapy Fund**

- (a) There is hereby created a California Board of Occupational Therapy, hereafter referred to as the board. The board shall enforce and administer this chapter.
- (b) The members of the board shall consist of the following:
  - (1) Three occupational therapists who shall have practiced occupational therapy for five years.
  - (2) One occupational therapy assistant who shall have assisted in the practice of occupational therapy for five years.
  - (3) Three public members who shall not be licentiates of the board, of any other board under this division, or of any board referred to in Section 1000 or 3600.
- (c) The Governor shall appoint the three occupational therapists and one occupational therapy assistant to be members of the board.

The Governor, the Senate Committee on Rules, and the Speaker of the Assembly shall each appoint a public member. Not more than one member of the board shall be appointed from the full-time faculty of any university, college, or other educational institution.

- (d) All members shall be residents of California at the time of their appointment. The occupational therapist and occupational therapy assistant members shall have been engaged in rendering occupational therapy services to the public, teaching, or research in occupational therapy for at least five years preceding their appointments.
- (e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to, or have a household member who is, an occupational therapist or an occupational therapy assistant, and may not have had, within two years of the appointment, a substantial financial interest in a person regulated by the board.
- (f) The Governor shall appoint two board members for a term of one year, two board members for a term of two years, and one board member for a term of three years. Appointments made thereafter shall be for four-year terms, but no person shall be appointed to serve more than two consecutive terms. Terms shall begin on the first day of the calendar year and end on the last day of the calendar

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year or until successors are appointed, except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, before commencing the terms prescribed by this section. Vacancies shall be filled by appointment for the unexpired term. The board shall annually elect one of its members as president.

- (g) The board shall meet and hold at least one regular meeting annually in the Cities of Sacramento, Los Angeles, and San Francisco. The board may convene from time to time until its business is concluded. Special meetings of the board may be held at any time and place designated by the board.
- (h) Notice of each meeting of the board shall be given in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).
- (i) Members of the board shall receive no compensation for their services, but shall be entitled to reasonable travel and other expenses incurred in the execution of their powers and duties in accordance with Section 103.
- (j) The appointing power shall have the power to remove any member of the board from office for neglect of any duty imposed by state law, for incompetency, or for unprofessional or dishonorable conduct.
- (k) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

#### **2570.20. Duties of board; rules; proceedings**

- (a) The board shall administer, coordinate, and enforce the provisions of this chapter, evaluate the qualifications, and approve the examinations for licensure under this chapter.
- (b) The board shall adopt rules in accordance with the Administrative Procedure Act relating to professional conduct to carry out the purpose of this chapter, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy or to assist in the practice of occupational therapy in this state.
- (c) Proceedings under this chapter shall be conducted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

#### **2570.21. Board's officers and executive officers**

Subject to Sections 107 and 154, the board may employ an executive officer and other officers and employees.

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### **2570.22. Creation of Occupational Therapy Fund**

All fees collected by the board shall be paid into the State Treasury and shall be credited to the Occupational Therapy Fund which is hereby created. The money in the fund shall be available, upon appropriation by the Legislature, for expenditure by the board to defray its expenses and to otherwise administer this chapter .

### **2570.23. Violations**

Any person who violates Section 2570.3 is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than five thousand dollars (\$5,000), or by imprisonment of not more than one year in a county jail, or by both that fine and imprisonment.

### **2570.24. Severability of provisions**

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end, the provisions of this chapter are declared to be severable.

### **2570.25. Priority of board; Protection of the public**

Protection of the public shall be the highest priority for the California Board of Occupational Therapy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.

### **2570.26. Denial, suspension, revocation, or probation of license**

- (a) The board may, after a hearing, deny, suspend, revoke, or place on probation a license, inactive license, or limited permit.
- (b) As used in this chapter, “license” includes a license, limited permit, or any other authorization to engage in practice regulated by this chapter.
- (c) The proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

### **2570.27. Discipline; Initial license**

- (a) The board may discipline a licensee by any or a combination of the following methods:
  - (1) Placing the license on probation with terms and conditions.
  - (2) Suspending the license and the right to practice occupational therapy for a period not to exceed one year.
  - (3) Revoking the license.
  - (4) Suspending or staying the disciplinary order, or portions of it, with or without conditions.
  - (5) Taking other action as the board, in its discretion, deems proper.



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- (b) The board may issue an initial license on probation, with specific terms and conditions, to any applicant who has violated any provision of this chapter or the regulations adopted pursuant to it, but who has met all other requirements for licensure.

### **2570.28. Grounds for denial or discipline**

The board may deny or discipline a licensee for any of the following:

- (a) Unprofessional conduct, including, but not limited to, the following:
- (1) Incompetence or gross negligence in carrying out usual occupational therapy functions.
  - (2) Repeated similar negligent acts in carrying out usual occupational therapy functions.
  - (3) A conviction of practicing medicine without a license in violation of Chapter 5 (commencing with Section 2000), in which event a certified copy of the record of conviction shall be conclusive evidence thereof.
  - (4) The use of advertising relating to occupational therapy which violates Section 17500.
  - (5) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a licensee by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision, order, or judgment shall be conclusive evidence thereof.
- (b) Procuring a license by fraud, misrepresentation, or mistake.
- (c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter or any regulation adopted pursuant to this chapter.
- (d) Making or giving any false statement or information in connection with the application for issuance or renewal of a license.
- (e) Conviction of a crime or of any offense substantially related to the qualifications, functions, or duties of a licensee, in which event the record of the conviction shall be conclusive evidence thereof.
- (f) Impersonating an applicant or acting as proxy for an applicant in any examination required under this chapter for the issuance of a license.
- (g) Impersonating a licensed practitioner, or permitting or allowing another unlicensed person to use a license.
- (h) Committing any fraudulent, dishonest, or corrupt act that is substantially related to the qualifications, functions, or duties of a licensee.
- (i) Committing any act punishable as a sexually related crime, if that act is substantially related to the qualifications, functions, or duties of a licensee, in which event a certified copy of the record of conviction shall be conclusive evidence thereof.

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- (j) Using excessive force upon or mistreating or abusing any patient. For the purposes of this subdivision, “excessive force” means force clearly in excess of that which would normally be applied in similar clinical circumstances.
  - (k) Falsifying or making grossly incorrect, grossly inconsistent, or unintelligible entries in a patient or hospital record or any other record.
  - (l) Changing the prescription of a physician and surgeon or falsifying verbal or written orders for treatment or a diagnostic regime received, whether or not that action resulted in actual patient harm.
  - (m) Failing to maintain confidentiality of patient medical information, except as disclosure is otherwise permitted or required by law.
  - (n) Delegating to an unlicensed employee or person a service that requires the knowledge, skills, abilities, or judgment of a licensee.
  - (o) Committing any act that would be grounds for denial of a license under Section 480.
  - (p) Except for good cause, the knowing failure to protect patients by failing to follow infection control guidelines of the board, thereby risking transmission of infectious diseases from licensee to patient, from patient to patient, or from patient to licensee.
    - (1) In administering this subdivision, the board shall consider referencing the standards, regulations, and guidelines of the State Department of Public Health developed pursuant to Section 1250.11 of the Health and Safety Code and the standards, guidelines, and regulations pursuant to the California Occupational Safety and Health Act of 1973 (Part 1 (commencing with Section 63001) of Division 5 of the Labor Code) for preventing the transmission of HIV, hepatitis B, and other blood-borne pathogens in health care settings. As necessary to encourage appropriate consistency in the implementation of this subdivision, the board shall consult with the Medical Board of California, the Board of Podiatric Medicine, the Dental Board of California, the Board of Registered Nursing, and the Board of Vocational Nursing and Psychiatric Technicians.
    - (2) The board shall seek to ensure that licensees are informed of their responsibility to minimize the risk of transmission of infectious diseases from health care provider to patient, from patient to patient, and from patient to health care provider, and are informed of the most recent scientifically recognized safeguards for minimizing the risks of transmission.

### **2570.29. Acts constituting unprofessional conduct**

In addition to other acts constituting unprofessional conduct within the meaning of this chapter, it is unprofessional conduct for a person licensed under this chapter to do any of the following:

- (a) Obtain or possess in violation of law, or prescribe, or, except as directed by a licensed physician and surgeon, dentist, optometrist, or podiatrist, to administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

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- (b) Use to an extent or in a manner dangerous or injurious to himself or herself, to any other person, or to the public, or that impairs his or her ability to conduct with safety to the public the practice authorized by his or her license, of any of the following:
- (1) A controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.
  - (2) A dangerous drug or dangerous device as defined in Section 4022.
  - (3) Alcoholic beverages.
- (c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.
- (d) Be committed or confined by a court of competent jurisdiction for intemperate use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of the commitment or confinement.
- (e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital or patient record, or any other record, pertaining to the substances described in subdivision (a) of this section.

### **2570.30. Jurisdiction of board**

The board shall retain jurisdiction to proceed with any investigation, action or disciplinary proceeding against a license, or to render a decision suspending or revoking a license, regardless of the expiration, lapse, or suspension of the license by operation of law, by order or decision of the board or a court of law, or by the voluntary surrender of a license by the licensee.

### **2570.31. Practicing occupational therapy with suspended license**

If a license is suspended, the holder may not practice occupational therapy during the term of suspension. Upon the expiration of the term of suspension, the license shall be reinstated and the holder entitled to resume practice under any remaining terms of the discipline, unless it is established to the satisfaction of the board that the holder of the license practiced in this state during the term of suspension. In this event, the board may, after a hearing on this issue alone, revoke the license.

### **2570.32. Petition for reinstatement or modification of penalty**

- (a) A holder of a license that has been revoked, suspended, or placed on probation, may petition the board for reinstatement or modification of a penalty, including reduction or termination of probation, after a period not less than the applicable following minimum period has elapsed from either the effective date of the decision ordering that disciplinary action, or, if the order of the board or any portion of it was stayed, from the date the disciplinary action was actually implemented in its entirety. The minimum periods that shall elapse prior to a petition are as follows:

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- (1) For a license that was revoked for any reason other than mental or physical illness, at least three years.
  - (2) For early termination of probation scheduled for three or more years, at least two years.
  - (3) For modification of a penalty, reinstatement of a license revoked for mental or physical illness, or termination of probation scheduled for less than three years, at least one year.
  - (4) The board may, in its discretion, specify in its disciplinary order a lesser period of time, provided that the period shall not be less than one year.
- (b) The petition submitted shall contain any information required by the board, which may include a current set of fingerprints accompanied by the fingerprinting fee.
  - (c) The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.
  - (d) The board itself shall hear the petition and the administrative law judge shall prepare a written decision setting forth the reasons supporting the decision.
  - (e) The board may grant or deny the petition, or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction of penalty.
  - (f) The board may refuse to consider a petition while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole or subject to an order of registration pursuant to Section 290 of the Penal Code.
  - (g) No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

### **2570.36. Reporting violations**

If a licensee has knowledge that an applicant or licensee may be in violation of, or has violated, any of the statutes or regulations administered by the board, the licensee shall report this information to the board in writing and shall cooperate with the board in providing information or assistance as may be required.

### **2571. Application of prescribed topical medication by therapist licensed to use physical agent modalities**

- (a) An occupational therapist licensed pursuant to this chapter and approved by the board in the use of physical agent modalities may apply topical medications prescribed by the patient's physician and surgeon, certified nurse-midwife pursuant to Section 2746.51, nurse practitioner pursuant to Section 2836.1, or physician assistant pursuant to Section 3502.1, if the licensee complies with regulations adopted by the board pursuant to this section.

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(b) The board shall adopt regulations implementing this section, after meeting and conferring with the Medical Board of California, the California State Board of Pharmacy, and the Physical Therapy Board of California, specifying those topical medications applicable to the practice of occupational therapy and protocols for their use. medications.

(c) Nothing in this section shall be construed to authorize an occupational therapist to prescribe medications.

### **17200. Definitions**

As used in this chapter, unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code.

### **17500. False or misleading statements**

It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform services, professional or otherwise, or anything of any nature whatsoever or to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement, concerning that real or personal property or those services, professional or otherwise, or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or for any person, firm, or corporation to so make or disseminate or cause to be so made or disseminated any such statement as part of a plan or scheme with the intent not to sell that personal property or those services, professional or otherwise, so advertised at the price stated therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine.

## **CALIFORNIA CODE OF REGULATIONS**

### **ARTICLE 1. GENERAL PROVISIONS**

#### **4100. Definitions**

In addition to the definitions found in Business and Professions Code section 2570.2, the following terms are used and defined herein:

(a) “Code” means the Business and Professions Code.

(b) “Holder” means the person to whom a license or limited permit has been issued by the board.

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- (c) “License” means the authority granted by the board to a person to offer occupational therapy as an occupational therapist or an occupational therapy assistant.
  - (d) “Limited permit” means the authority granted by the board to a person to offer occupational therapy services under the direction and appropriate supervision of a licensed occupational therapist.
  - (e) “The Occupational Therapy Practice Act” or “Act” means Chapter 5.6 of Division 2, of the Business and Professions Code.

#### **4101. Delegation of Certain Functions**

Except for those powers reserved exclusively to the “agency itself” under the Administrative Procedure Act (section 11500 et seq. of the Government Code), the power and discretion conferred by law upon the Board to order an examination pursuant to section 820 of the Code; receive and file accusations and statements of issues; issue notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing and perform other functions necessary to the dispatch of the business of the Board in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings, including the authority to approve a settlement agreement for revocation or surrender of a license, or approve an interim license suspension; and the certification and delivery or mailing of copies of decisions under Section 11518 of the Government Code are hereby delegated to and conferred upon the executive officer of the Board.

#### **4102. Filing of Addresses**

- (a) Each person licensed or issued a limited permit by the board, shall report to the board every change of residence address within 30 days after the change, giving both the old and new addresses. In addition to the residence address, the person may provide the board with an alternate address of record. If an alternate address is the person’s address of record, he or she may request, in writing, that the residence address not be disclosed to the public.
- (b) Each person licensed or issued a limited permit by the board shall report to the board every change of name within 30 days after the change, giving both the old and new names.
- (c) This section refers to every person who holds an active, inactive, unexpired, suspended license or a limited permit.

### **ARTICLE 2. APPLICATIONS**

#### **4110. Application**

- (a) An application for a license, certificate, or limited permit shall contain the information required by sections 30, 144, 851, 2570.5, 2570.6, 2570.7, 2570.8, 2570.9, 2570.14, and 2570.16 of the Code and Family Code section 17520, accompanied by the appropriate fees.
- (b) For an applicant applying for licensure pursuant to section 2570.15 of the Code, “substantially equal” means that the applicant has successfully completed the academic requirements of an

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educational program, including the educational program and supervised fieldwork requirements, for an occupational therapist or an occupational therapy assistant that are approved by the board and approved by the foreign credentialing review process of the National Board of Certification in Occupational Therapy (NBCOT), the American Occupational Therapy Certification Board, or the American Occupational Therapy Association.

#### **4111. Place of Filing**

Applications shall be filed with the board's principal office.

#### **4112. Review of Application**

Within thirty (30) days after receipt of an application for a license, certificate, or limited permit, the board shall inform the applicant, in writing, whether the application is complete and accepted for filing or that it is deficient and what specific information or documentation is required to complete the application.

#### **4114. Abandonment of Application**

- a) An application for a license shall be deemed abandoned and the application fee forfeited when:
- (1) The applicant fails to complete the application within two years after it is originally received by the board.
  - (2) The applicant fails to submit the initial license fee within sixty (60) days after the date of notification of eligibility by the board.
- (b) An application for a limited permit shall be deemed abandoned and the application fee forfeited if the applicant fails to complete the application or submit the required fee within sixty (60) days after it is originally received by the board.
- (c) An application submitted subsequent to the abandonment of a previous application shall be treated as a new application.

Article 2.1 sponsored free health care events

#### **4116. Definitions.**

For the purposes of section 901 of the Business and Professions Code:

- (a) "Community-based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.
- (b) "Out-of-state practitioner" means a person who is not licensed in California to engage in the practice of occupational therapy, but who holds a current valid and unrestricted license, registration, or certificate in good standing in another state, district, or territory of the United States to practice as an occupational therapist or occupational therapy assistant.

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#### 4117. Sponsoring Entity Registration and Recordkeeping Requirements.

- (a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the Code shall register with the board not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the board by submitting to the board, or its delegatee, a completed “Sponsored Free Health Care Events Registration of Sponsoring Entity Under Business & Professions Code Section 901,” Form 901-A (DCA/2011), which is hereby incorporated by reference.
- (b) Determination of Completeness of Form. The board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process “Sponsored Free Health Care Events Registration of Sponsoring Entity Under Business & Professions Code Section 901,” Form 901-A (DCA/2011) on behalf of the Board. The Board or its delegatee shall inform the sponsoring entity in writing within 15 calendar days of receipt of the form that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The board or its delegatee shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.
- (c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by section 901 of the Code as well as a copy of the authorization for participation issued by the board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five years after the date on which a sponsored event ended. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by section 901(g) of the Code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the board.
- (d) Notice. A sponsoring entity shall place a notice visible to patients at every station where patients are being seen by an occupational therapist or occupational therapy assistant. The notice shall be in at least 48 point type in Arial font and shall include the following statement and information:

#### NOTICE

Occupational therapists and occupational therapy assistants providing health care services at this health fair are either licensed and regulated by the California Board of Occupational Therapy or hold a current valid license from another state and have been authorized to provide health care services in California only at this specific health fair.

For more information:  
CA Board of Occupational Therapy  
1-800-952-5210 or 1-916-263-2294  
[www.bot.ca.gov](http://www.bot.ca.gov)



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- (e) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval from the board confirming that the out-of-state practitioner has been approved to participate in the event.
- (f) Report. Within 15 calendar days after a sponsored event has concluded, the sponsoring entity shall file a report with the board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:
- (1) The date(s) of the sponsored event;
  - (2) The location(s) of the sponsored event;
  - (3) The type(s) and general description of all health care services provided at the sponsored event; and
  - (4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.

#### **4118. Out-of-State Practitioner Authorization to Participate in Sponsored Event.**

- (a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the board to provide those services. An applicant shall request authorization by submitting to the board a completed "Request for Authorization to Practice Without a California License at a Sponsored Free Health Care Event," Form CBOT 901-B (Rev. 03/2012), which is hereby incorporated by reference, accompanied by a non-refundable, non-transferable processing fee of fifty dollars (\$50). The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the board to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history record check. The fingerprint and criminal history check requirement shall apply only to the first application for authorization that is submitted by the applicant, unless an electronic record of the fingerprint submission no longer exists in the California Department of Justice criminal offender record information database.
- (b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the board shall notify the sponsoring entity or local governmental entity whether that request is approved or denied.
- (c) Denial of Request for Authorization to Participate.
- (1) The board shall deny a request for authorization to participate if:
    - (A) The submitted form is incomplete and the applicant has not responded within 7 calendar days to the board's request for additional information; or
    - (B) The applicant has not graduated from a school or program approved by the Accreditation Council for Occupational Therapy Education, its predecessor organization, or otherwise approved by the board; or

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- (C) The applicant has not passed the examination administered by the National Board for Certification in Occupational Therapy or its predecessor organization; or
  - (D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial of an application for licensure by the board; or
  - (E) The applicant does not possess a current, active, and valid license in good standing.

The term “good standing” means the applicant:

1. Has not been charged with an offense for any act substantially related to the practice for which the applicant is licensed by any public agency;
2. Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed upon the applicant’s professional conduct or practice, including any voluntary surrender of license;
3. Has not been the subject of an adverse action nor judgment resulting from the practice for which the applicant is licensed that the board determines constitutes evidence of a pattern of negligence or incompetence.

- (F) The board has been unable to obtain a timely report of the results of the criminal history check.

- (G) The applicant has been previously disciplined or denied licensure by the California Board of Occupational Therapy.

(2) The board may deny a request for authorization to participate if:

- (A) The request is received less than 20 calendar days before the date on which the sponsored event will begin; or

- (B) The applicant has been previously denied a request for authorization by the board to participate in a sponsored event; or

- (C) The applicant has previously had an authorization to participate in a sponsored event terminated by the board.

(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 4119(d) and/or (e).

#### **4119. Termination of Authorization and Appeal.**

(a) Grounds for Termination. The board may terminate an out-of-state practitioner’s authorization to participate in a sponsored event for any of the following reasons:

- (1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the board.

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- (2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the board.
  - (3) The board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.
- (b) Notice of Termination. The board shall provide both the sponsoring entity or local government entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the board may provide the notice to any representative of the sponsored event on the premises of the event.
  - (c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.

Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data bank and the healthcare integrity protection data bank. In addition, the board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.

- (d) Appeal of Termination. An out-of-state practitioner may appeal the board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the Code. The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.
- (e) Agency Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the executive officer regarding the reasons for the termination of authorization to participate. The executive officer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the executive officer may affirm or dismiss the termination of authorization to participate. The executive officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within ten days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.

## ARTICLE 3. LICENSE, CERTIFICATE, LIMITED PERMIT, INACTIVE STATUS

### 4120. Renewal of License or Certificate

- (a) The term of a license or certificate shall be two years.
  - (1) Unless renewed, a license or certificate issued by the board shall expire at 12 midnight on the last day of the holder's birth month during an odd year if the licensee was born in an odd year or during an even year, if the licensee was born in an even year. The initial license fee shall be prorated from the month of issuance based on the holder's birth month and birth year.

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- (2) To renew an unexpired license or certificate, the holder shall, before the time at which the license or certificate would otherwise expire, apply for renewal, pay the renewal fee., and certify that the licensee's or certificate holder's representations on the renewal form are true, correct, and contain no material omissions of fact, signed under penalty of perjury.
  - (3) The renewal application shall include a statement specifying whether the licensee or certificate holder was convicted of a crime or disciplined by another public agency during the preceding renewal period, and whether the continuing competency requirements have been met if renewing in an active status.
  - (4) For a license or certificate that expires on or after July 1, 2010, as a condition of renewal, an applicant for renewal not previously fingerprinted by the board, or for whom a record of the submission of fingerprints no longer exists, is required to furnish to the Department of Justice, as directed by the board, a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice. Failure to submit a full set of fingerprints to the Department of Justice on or before the date required for renewal of a license or certificate is grounds for discipline by the board. It shall be certified on the renewal form whether the fingerprints have been submitted. This requirement is waived if the license or certificate is renewed in an inactive status, or the licensee or certificate holder is actively serving in the military outside the country.
  - (5) An inactive license or certificate may be renewed.
  - (6) Failure to provide all of the information required by this section renders any application for renewal incomplete and not eligible for renewal.

(b) A limited permit cannot be renewed.

#### **4121. Renewal of Expired License or Certificate; Application; Fees; Effective Date of Renewal**

Except as otherwise provide in the Code, a license or certificate which has expired may be renewed at any time within five years after its expiration on filing of an application for renewal, and payment of all accrued and unpaid renewal fees. If a license or certificate is renewed after its expiration, the licensee or certificate holder, as a condition precedent to renewal, shall also pay a delinquency fee. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license or certificate shall continue in effect through the expiration date provided in section 4120 above which next occurs after the effective date of renewal, when it shall expire if it is not renewed.

#### **4122. Inactive Status**

Upon written request, the board may grant inactive status to a license holder under the following conditions:

- (a) At the time of application for inactive status, the holder's license shall be current and not suspended, revoked, or otherwise punitively restricted by the board.

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- (b) The holder of an inactive license shall not engage in any activity for which a license is required.
  - (c) An inactive license shall be renewed during the same time period in which an active license is renewed. The holder of an inactive license or certificate need not comply with any continuing education requirement for renewal of an active license.
  - (d) The renewal fee for a license in an active status shall apply also for a renewal of a license in an inactive status, unless a lesser renewal fee is specified by the board.
  - (e) In order for the holder of an inactive license to restore his or her license to an active status, he or she shall comply with all of the following:
    - (1) Pay the renewal fee.
    - (2) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for a single renewal period of an active license.

#### **4123. Limited Permit**

- (a) To qualify for a limited permit, a person must have applied to the National Board for Certification in Occupational Therapy (NBCOT) to take the licensing examination within four (4) months of completing the education and fieldwork requirements for licensure or certification and request NBCOT provide their examination score report be forwarded to the Board.
  - (1) Upon receipt from NBCOT, the applicant must forward to the Board a copy of the Authorization to Test (ATT) letter.
  - (2) The applicant must provide documentation or other evidence to the Board, to prove that the applicant requested their examination score be sent from NBCOT to the Board, before a limited permit may be issued.
  - (3) A limited permit shall only be valid for three (3) months from the date of issuance by the Board, upon receipt of a failing result, or two (2) weeks following the expiration of the applicants' eligibility to test period, whichever occurs first.
  - (4) The limited permit holder must immediately notify the Board of the results of the examination.
  - (5) The limited permit holder must provide to the Board the name, address and telephone number of his or her employer and the name and license number of his or her supervising occupational therapist (OT). Any change of employer or supervising OT must be provided to the Board, in writing, within 10 days of the change.
- (b) The limited permit will be cancelled, and the fee forfeited, upon notification to the Board or the limited permit holder by the test administrator that the holder failed to pass the first examination.

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## 4125. Representation

(a)(1) Unless licensed as an occupational therapist by the Board, a person may not use the professional abbreviations “O.T.” or “O.T./L.,” or refer to themselves as an “Occupational Therapist” or use any other words, letters, symbols, manner, or means with the intent to represent that the person practices or is authorized to practice occupational therapy in California.

(2) Unless licensed as an occupational therapist by the Board, and currently registered with the National Board for Certification in Occupational Therapy (NBCOT), a person may not use the professional abbreviations “O.T.R.,” or “O.T.R./L.,” or refer to themselves as “Occupational Therapist, Registered,” or “Registered Occupational Therapist” or use any other words, letters, symbols, manner, or means, with the intent to represent that the person practices or is authorized to practice occupational therapy in California.

(b)(1) Unless licensed as an occupational therapy assistant, a person may not use the professional abbreviations “O.T.A.,” or “O.T.A./L.,” or refer to themselves as an “Occupational Therapy Assistant,” or use any other words, letters, symbols, manner, or means with the intent to represent that the person practices or is authorized to practice occupational therapy in California.

(2) Unless licensed as an occupational therapy assistant and currently registered with NBCOT, a person may not use the professional abbreviations “C.O.T.A.,” or “C.O.T.A./L.,” or refer to themselves as “Certified Occupational Therapy Assistant,” or use any other words, letters, symbols, manner, or means, with the intent to represent that the person practices or is authorized to practice occupational therapy in California.

(c) Pursuant to section 2570.18 of the Business and Professions Code, the unauthorized representation by an occupational therapist or an occupational therapy assistant constitutes an unfair business practice and false and misleading advertising under Business and Professions Code section 17200 and 17500, respectively, and a violation of section 4170, the Ethical Standards of Practice.

Note: Authority cited: Section 2570.20, Business and Professions Code. Reference: Sections 2570.3, 2570.18, 17200 and 17500, Business and Professions Code.

## ARTICLE 4. FEES

### 4130. Fees

Fees are fixed by the board as follows:

(a) The initial license or certificate fee shall be prorated pursuant to Section 4120(a)(1) and based on a biennial fee of \$150.

(b) The fee for a limited permit is \$75.

(c) For a license that expires on or before December 31, 2006, the annual renewal fee for a license or certificate is \$150.

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- (d) For a license that expires on or after January 1, 2007, the renewal fee shall be in accordance with the following schedule:
- (1) For a license that expires between January 1, 2007, and December 31, 2007, a licensee with an even birth year shall renew for one year and the renewal fee shall be seventy-five dollars (\$75).
  - (2) For a license that expires on or after January 1, 2007, and biennially thereafter, a licensee with an odd birth year shall renew for two years and the renewal fee shall be one hundred fifty dollars (\$150).
  - (3) For a license that expires on or after January 1, 2008, and biennially thereafter, a licensee with an even birth year shall renew for two years and the renewal fee shall be one hundred fifty dollars (\$150).
- (e) The delinquency fee is one-half of the renewal fee.
- (f) The renewal fee for an inactive license or certificate is \$25.
- (g) The fee for a duplicate license is \$15.
- (h) The fees for fingerprint services are those charged by the California Department of Justice and the Federal Bureau of Investigation.

## ARTICLE 5. CITATIONS

### 4140. Issuance of Citations

- (a) The Board's executive officer, or his or her designee, is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to section 125.9 of the Business and Professions Code against occupational therapists or occupational therapy assistants who have committed any acts or omissions which are in violation of the Occupational Therapy Practice Act or any regulation adopted pursuant thereto.
- (b) The Board's executive officer, or his or her designee, is authorized to issue citations containing orders of abatement, orders of correction, and/or administrative fines pursuant to section 148 of the Business and Professions Code against unlicensed persons who have committed any acts or omissions which are in violation of the Occupational Therapy Practice Act or any regulation adopted pursuant thereto.
- (c) Each citation:
  - (1) shall be in writing,
  - (2) shall describe with particularity the nature of the violation, including specific reference to the provision or provisions of law determined to have been violated,

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- (3) may contain one or more of the following:
- (A) an assessment of an administrative fine;
  - (B) an order of abatement fixing a reasonable period of time for abatement of the violation;
  - (C) an order of correction,
- (4) shall be served on the cited person, in person, or by certified and regular mail at the address of record on file with the Board. Citations served by certified and regular mail shall be deemed “served” on the date of mailing.
- (5) shall inform the cited person that, if he or she desires an informal conference to contest the finding of a violation, the informal conference shall be requested by written notice to the Board within 30 calendar days from service of the citation,
- (6) shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the Board within 30 calendar days from service of the citation,
- (7) shall inform the cited person that failure to pay the fine within 30 calendar days of the date of service, unless the citation is being appealed, may result in disciplinary action being taken by the Board.
- (d) If a citation is not contested and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without payment of the renewal fee and fine.
- (e) The sanction authorized under this section shall be separate from, and in addition to, any civil or criminal remedies.

#### **4141. Assessment of Administrative Fines**

- (a) Where citations include an assessment of an administrative fine, the fine shall be not less than \$50 or exceed \$5,000 for each violation. Each violation shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:
- (1) Class “A” violations shall not be less than \$1,001 nor more than \$5,000. Class “A” violations are violations that the executive officer, or his or her designee, has determined involve a person who, while engaged in the practice of occupational therapy, has violated a statute or regulation relating to the Occupational Therapy Practice Act. Class “A” violations are more serious in nature and may include, but are not limited to, violations which resulted in or had significant potential for patient harm and where there is no evidence that revocation or other disciplinary action is required to ensure public safety. Such violations include, but are not limited to, failing to provide direct in-sight supervision of an aide when the aide performed a client related task that resulted in harm to the patient, or failing to provide adequate supervision



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to an occupational therapy assistant that resulted in harm to the patient, or fraudulent medical billing, or practicing without a current and active license for more than one year, or functioning autonomously as an occupational therapy assistant. A Class “A” violation may be issued to a person who has committed a class “B” violation who has had two or more prior, separate class “B” violations.

- (2) Class “B” violations shall not be less than \$501 nor more than \$2,500. Class “B” violations are violations that the executive officer, or his or her designee, has determined involve a person who, while engaged in the practice of occupational therapy, has violated a statute or regulation relating to the Occupational Therapy Practice Act. Class “B” violations are less serious in nature and may include, but are not limited to, violations which could have resulted in patient harm. Typically some degree of mitigation will exist. Such violations include, but are not limited to, failing to provide direct in-sight supervision of an aide when the aide performed a client related task that did not result in harm to a patient, or failure to provide adequate supervision to an occupational therapy assistant, limited permit holder, student, or occupational therapy aid, resulting in no patient harm, or providing advanced practice services without board approval, or practicing when the license has been expired or inactive for a period of more than three months but less than one year, or supervising more occupational therapy assistants than allowed by law. A class “B” violation may be issued to a person who has committed a class “C” violation who has two or more prior, separate class “C” violations.
  - (3) Class “C” violations shall not be less than \$50 nor more than \$1,000. Class “C” violations are violations that the executive officer, or his or her designee, has determined involve a person who has violated a statute or regulation relating to the practice of occupational therapy. A class “C” violation is a minor or technical violation which is neither directly or potentially detrimental to patients nor potentially impacts their care. Such violations may include, but are not limited to, practicing when the license has been expired or inactive for a period of three months or less, failing to disclose a conviction or convictions in the application process, or failing to provide a patient or client or the guardian of a patient or client access to their medical records pursuant to Health and Safety Code Section 123110. A class “C” violation may also be issued to a licensee who fails to respond to a written request by the board for additional information relating to a renewal application.
  - (4) Class “D” violations shall not be less than \$50 nor more than \$250. Class “D” violations occur when the executive officer, or his or her designee, has determined that an applicant or licensee has failed to provide a change of address within 30 days as required by Section 4102. A class “D” violation is a minor technical violation which is neither directly or potentially detrimental to patients nor potentially impacts their care.
- (b) In determining the amount of an administrative fine, the executive officer, or his or her designee, shall consider the following factors:
- (1) Gravity of the violation,
  - (2) History of previous violations involving the same or similar conduct,

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- (3) Length of time that has passed since the date of the violation,
  - (4) Consequences of the violation, including potential for patient harm,
  - (5) The good or bad faith exhibited by the cited individual,
  - (6) Evidence that the violation was willful,
  - (7) The extent to which the individual cooperated with the board's investigation,
  - (8) The extent to which the individual has remediated any knowledge and/or skills deficiencies,
  - (9) Any other mitigating or aggravating factors.
- (c) In his or her discretion, the executive officer, or his or her designee, may issue an order of abatement without levying a fine for the first violation of any provision set forth in subsection (a).
  - (d) The executive officer, or his or her designee, may assess a fine which shall not exceed five thousand dollars (\$5,000) for each violation if the violation involves fraudulent billing.

#### **4142. Appeal of Citations**

- (a) The cited person may, within 30 calendar days of service of the citation, submit a written request for an informal conference with the executive officer.
- (b) In addition to requesting an informal conference described in subsection (a), a cited person may contest a citation, in whole or in part, by submitting a written request for an administrative hearing to the Board within 30 calendar days of service of the citation. Such hearings shall be conducted pursuant to the Administrative Procedure Act, Chapters 4.5 and 5 (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.
- (c) The request for a hearing to contest a citation is not waived if the executive officer affirms the citation at an informal conference.
- (d) The executive officer, or his or her designee, shall within 30 working days from receipt of a written request for an informal conference, hold an informal conference with the cited person. The 30-day period may be extended by the executive officer for good cause. Following the informal conference, the executive officer, or his or her designee, may affirm, modify, or dismiss the citation, including any fine assessed or order of abatement issued. A written order affirming, modifying, or dismissing the original citation shall be served on the cited person within 30 calendar days from the informal conference. If the order affirms or modifies the original citation, said order shall fix a reasonable period of time for abatement of the violation or payment of the fine.
- (e) If the informal conference results in the modification of the findings of violation(s), the amount of the fine or the order of abatement, the citation shall be considered modified, but not withdrawn. A cited person is entitled to a hearing to contest the modified citation if he or she filed a timely request. A cited person is not entitled to an informal conference to contest a modified citation. If a timely request for a hearing was not filed, the decision in the modified citation shall be considered final.

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- (f) If the citation is dismissed after the informal conference, the request for a hearing, if any, shall be deemed withdrawn.
  - (g) Submittal of a written request for an informal conference as provided in subsection (a) or an administrative hearing as provided in subsection (b), or both, stays the time period in which to pay the fine.
  - (h) If a written request for an informal conference as provided in subsection (a), or a written request for a hearing as provided in subsection (b), or both, is not submitted to the board within 30 calendar days from service of the citation, the cited person is deemed to have waived his or her right to an informal conference and/or administrative hearing.

#### **4143. Compliance with Citations**

- (a) If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his or her control after the exercise of reasonable diligence, he or she may request an extension of time within which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.
- (b) Failure of an applicant to abate the violation or to pay the fine within the time allowed is a ground for denial of licensure or registration.
- (c) If an informal conference or hearing is not requested, payment of the fine shall not constitute an admission of the violation charged and payment of the fine shall be represented as satisfactory resolution of the matter for purposes of public disclosure.

#### **4144. Disciplinary Guidelines. [Renumbered to 4147]**

#### **4145. Record Retention.**

- (a) Every citation, once it has been resolved by payment of the administrative fine and/or compliance with the order of abatement, shall be purged five (5) years from the date of resolution, except for citations referenced in subsection (b).
- (b) No citation shall be purged if issued pursuant to CCR Section 4140(b), and no citation shall be purged for any citation issued for unlicensed practice.

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## ARTICLE 5.5. STANDARDS RELATED TO DENIAL, DISCIPLINE, AND REINSTATEMENT OF LICENSES

### 4146. Definitions.

- (a) “Incompetence” is the lack of possession of or the failure to exercise that degree of knowledge, learning, skill, ability, care or experience ordinarily possessed and exercised by a competent licensed professional.
- (b) “Negligence” is a departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.
- (c) “Gross negligence” is an extreme departure from the standard of care, which under similar circumstances, would have been ordinarily exercised by a competent licensed professional.
- (d) For the purposes of denial, suspension, or revocation of a license, a crime or act shall be considered to be “substantially related to the qualifications, functions or duties of an occupational therapy practitioner,” if it evidences present or potential unfitness of a licensee to perform the functions authorized by his or her license or in a manner inconsistent with the public health, safety, or welfare. Such crimes or acts include, but are not limited to, those involving the following:
  - (1) Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation of or conspiring to violate any provision or term of the Occupational Therapy Practice Act.
  - (2) Fiscal dishonesty, theft or larceny.
  - (3) An incident involving controlled substances or alcohol to the extent that practice is impaired or a threat to the health or safety of themselves or others.
  - (4) Conviction of a crime involving harassment or stalking (as defined by the Penal Code).
  - (5) Conviction of a crime involving lewd conduct, prostitution or solicitation thereof, or pandering and/or indecent exposure (as defined by the Penal Code).
  - (6) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.
  - (7) Failure to comply with any mandatory reporting requirements.
  - (8) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

### 4147. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.

- (a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code 11400 et seq.), the Board shall comply with the Uniform Standards Related to Substance Abuse and Disciplinary Guidelines[July 2011] which are hereby incorporated by reference. Deviation from these disciplinary guidelines and orders, including

























































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the agency shall issue its final decision not later than 100 days after receipt of the transcript. If the agency finds that a further delay is required by special circumstance, it shall issue an order delaying the decision for no more than 30 days and specifying the reasons therefor. The order shall be subject to judicial review pursuant to Section 11523.

- (d) The decision of the agency shall be filed immediately by the agency as a public record and a copy shall be served by the agency on each party and his or her attorney.

### **11518. Copies of decision to parties**

Copies of the decision shall be delivered to the parties personally or sent to them by registered mail.

#### **11518.5. Application to correct mistake or error in decision; Modification; Service after correction**

- (a) Within 15 days after service of a copy of the decision on a party, but not later than the effective date of the decision, the party may apply to the agency for correction of a mistake or clerical error in the decision, stating the specific ground on which the application is made. Notice of the application shall be given to the other parties to the proceeding. The application is not a prerequisite for seeking judicial review.
- (b) The agency may refer the application to the administrative law judge who formulated the proposed decision or may delegate its authority under this section to one or more persons.
- (c) The agency may deny the application, grant the application and modify the decision, or grant the application and set the matter for further proceedings. The application is considered denied if the agency does not dispose of it within 15 days after it is made or a longer time that the agency provides by regulation.
- (d) Nothing in this section precludes the agency, on its own motion or on motion of the administrative law judge, from modifying the decision to correct a mistake or clerical error. A modification under this subdivision shall be made within 15 days after issuance of the decision.
- (e) The agency shall, within 15 days after correction of a mistake or clerical error in the decision, serve a copy of the correction on each party on which a copy of the decision was previously served.

#### **11519. Effective date of decision; Stay of execution; Notice of suspension or revocation; Restitution; Actual knowledge as condition of enforcement**

- (a) The decision shall become effective 30 days after it is delivered or mailed to respondent unless: a reconsideration is ordered within that time, or the agency itself orders that the decision shall become effective sooner, or a stay of execution is granted.
- (b) A stay of execution may be included in the decision or if not included therein may be granted by the agency at any time before the decision becomes effective. The stay of execution provided herein may be accompanied by an express condition that respondent comply with specified terms of probation; provided, however, that the terms of probation shall be just and reasonable in the light of the findings and decision.

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- (c) If respondent was required to register with any public officer, a notification of any suspension or revocation shall be sent to the officer after the decision has become effective.
  - (d) As used in subdivision (b), specified terms of probation may include an order of restitution. Where restitution is ordered and paid pursuant to the provisions of this subdivision, the amount paid shall be credited to any subsequent judgment in a civil action.
  - (e) The person to which the agency action is directed may not be required to comply with a decision unless the person has been served with the decision in the manner provided in Section 11505 or has actual knowledge of the decision.
  - (f) A nonparty may not be required to comply with a decision unless the agency has made the decision available for public inspection and copying or the nonparty has actual knowledge of the decision.
  - (g) This section does not preclude an agency from taking immediate action to protect the public interest in accordance with Article 13 (commencing with Section 11460.10) of Chapter 4.5.

#### **11520. Defaults and uncontested cases**

- (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent; and where the burden of proof is on the respondent to establish that the respondent is entitled to the agency action sought, the agency may act without taking evidence.
- (b) Notwithstanding the default of the respondent, the agency or the administrative law judge, before a proposed decision is issued, has discretion to grant a hearing on reasonable notice to the parties. If the agency and administrative law judge make conflicting orders under this subdivision, the agency's order takes precedence. The administrative law judge may order the respondent, or the respondent's attorney or other authorized representative, or both, to pay reasonable expenses, including attorney's fees, incurred by another party as a result of the respondent's failure to appear at the hearing.
- (c) Within seven days after service on the respondent of a decision based on the respondent's default, the respondent may serve a written motion requesting that the decision be vacated and stating the grounds relied on. The agency in its discretion may vacate the decision and grant a hearing on a showing of good cause. As used in this subdivision, good cause includes, but is not limited to, any of the following:
  - (1) Failure of the person to receive notice served pursuant to Section 11505.
  - (2) Mistake, inadvertence, surprise, or excusable neglect.

#### **11521. Reconsideration**

- (a) The agency itself may order a reconsideration of all or part of the case on its own motion or on petition of any party. The agency shall notify a petitioner of the time limits for petitioning for reconsideration. The power to order a reconsideration shall expire 30 days after the delivery or mailing of a decision to a respondent, or on the date set by the agency itself as the effective date of

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the decision if that date occurs prior to the expiration of the 30-day period or at the termination of a stay of not to exceed 30 days which the agency may grant for the purpose of filing an application for reconsideration. If additional time is needed to evaluate a petition for reconsideration filed prior to the expiration of any of the applicable periods, an agency may grant a stay of that expiration for no more than 10 days, solely for the purpose of considering the petition. If no action is taken on a petition within the time allowed for ordering reconsideration, the petition shall be deemed denied.

- (b) The case may be reconsidered by the agency itself on all the pertinent parts of the record and such additional evidence and argument as may be permitted, or may be assigned to an administrative law judge. A reconsideration assigned to an administrative law judge shall be subject to the procedure provided in Section 11517. If oral evidence is introduced before the agency itself, no agency member may vote unless he or she heard the evidence.

### **11522. Reinstatement of license or reduction of penalty**

A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefor, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.

## **OTHER CALIFORNIA CODES**

### **EDUCATION CODE**

**44010 . “Sex offense,” as used in Sections 44020, 44237, 44346, 44425, 44436, 44836, and 45123, means any one or more of the offenses listed below:**

- (a) Any offense defined in Section 220, 261, 261.5, 262, 264.1, 266, 266j, 267, 285, 286, 288, 288a, 288.5, 289, 311.1, 311.2, 311.3, 311.4, 311.10, 311.11, 313.1, 647b, 647.6, or former Section 647a, subdivision (a), (b), (c), or (d) of Section 243.4, or subdivision
- (a) or (d) of Section 647 of the Penal Code.
- (b) Any offense defined in former subdivision (5) of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision (2) of former Section 311 of the Penal Code repealed by Chapter 2147 of the



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Statutes of 1961, if the offense defined in those sections was committed prior to September 15, 1961, to the same extent that an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.

- (c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.
- (d) Any offense defined in former subdivision (1) of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.
- (e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.
- (f) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961, if that offense was committed prior to September 15, 1961, to the same extent that an offense committed prior to that date was a sex offense for the purposes of this section prior to September 15, 1961.
- (g) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975-76 Regular Session of the Legislature committed prior to the effective date of the amendment.
- (h) Any attempt to commit any of the offenses specified in this section.
- (i) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.
- (j) Any conviction for an offense resulting in the requirement to register as a sex offender pursuant to Section 290 of the Penal Code.
- (k) Commitment as a mentally disordered sex offender under former Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of the Welfare and Institutions Code, as repealed by Chapter 928 of the Statutes of 1981.

## FAMILY CODE

### **17520. Child support enforcement**

(a) As used in this section:

- (1) "Applicant" means any person applying for issuance or renewal of a license.
- (2) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, the Department of Motor Vehicles, the Secretary of State, the Department of Fish and Game, and any other state commission, department, committee,

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examiner, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, or to the extent required by federal law or regulations, for recreational purposes. This term includes all boards, commissions, departments, committees, examiners, entities, and agencies that issue a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession. The failure to specifically name a particular board, commission, department, committee, examiner, entity, or agency that issues a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession does not exclude that board, commission, department, committee, examiner, entity, or agency from this term.

- (3) “Certified list” means a list provided by the local child support agency to the Department of Child Support Services in which the local child support agency verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.
- (4) “Compliance with a judgment or order for support” means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a support arrearage, or in making periodic payments in full, whether court ordered or by agreement with the local child support agency, on a judgment for reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order. The local child support agency is authorized to use this section to enforce orders for spousal support only when the local child support agency is also enforcing a related child support obligation owed to the obligee parent by the same obligor, pursuant to Sections 17400 and 17604.
- (5) “License” includes membership in the State Bar, and a certificate, credential, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle, including appointment and commission by the Secretary of State as a notary public. “License” also includes any driver’s license issued by the Department of Motor Vehicles, any commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any license used for recreational purposes. This term includes all licenses, certificates, credentials, permits, registrations, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession. The failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board that allows a person to engage in a business, occupation, or profession, does not exclude that license, certificate, credential, permit, registration, or other authorization from this term.
- (6) “Licensee” means any person holding a license, certificate, credential, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver’s license as defined in Section 15210 of the Vehicle Code, including an appointment and commission by the Secretary of State as a notary public. “Licensee” also

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means any person holding a driver's license issued by the Department of Motor Vehicles, any person holding a commercial fishing license issued by the Department of Fish and Game, and to the extent required by federal law or regulations, any person holding a license used for recreational purposes. This term includes all persons holding a license, certificate, credential, permit, registration, or any other authorization to engage in a business, occupation, or profession, and the failure to specifically name a particular type of license, certificate, credential, permit, registration, or other authorization issued by a board does not exclude that person from this term. For licenses issued to an entity that is not an individual person, "licensee" includes any individual who is either listed on the license or who qualifies for the license.

- (b) The local child support agency shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act against whom a support order or judgment has been rendered by, or registered in, a court of this state, and who are not in compliance with that order or judgment. The local child support agency shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the local child support agency who certified the list to the department. The local child support agency shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The local child support agency shall submit to the department an updated certified list on a monthly basis.
- (c) The department shall consolidate the certified lists received from the local child support agencies and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board that is responsible for the regulation of licenses, as specified in this section.
- (d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the department, all boards subject to this section shall implement procedures to accept and process the list provided by the department, in accordance with this section. Notwithstanding any other law, all boards shall collect social security numbers from all applicants for the purposes of matching the names of the certified list provided by the department to applicants and licensees and of responding to requests for this information made by child support agencies.
- (e)(1) Promptly after receiving the certified consolidated list from the department, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the department. The board shall have the authority to withhold issuance or renewal of the license of any applicant on the list.
- (2) If an applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.
- (A) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

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- (B) Except as provided in subparagraph (D), the 150-day time period for a temporary license shall not be extended. Except as provided in subparagraph (D), only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver's licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.
- (C) In the event that a license or application for a license or the renewal of a license is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.
- (D) This paragraph shall apply only in the case of a driver's license, other than a commercial driver's license. Upon the request of the local child support agency or by order of the court upon a showing of good cause, the board shall extend a 150-day temporary license for a period not to exceed 150 extra days.
- (3)(A) The department may, when it is economically feasible for the department and the boards to do so as determined by the department, in cases where the department is aware that certain child support obligors listed on the certified lists have been out of compliance with a judgment or order for support for more than four months, provide a supplemental list of these obligors to each board with which the department has an interagency agreement to implement this paragraph. Upon request by the department, the licenses of these obligors shall be subject to suspension, provided that the licenses would not otherwise be eligible for renewal within six months from the date of the request by the department. The board shall have the authority to suspend the license of any licensee on this supplemental list.
- (B) If a licensee is on a supplemental list, the board shall immediately serve notice as specified in subdivision (f) on the licensee that his or her license will be automatically suspended 150 days after notice is served, unless compliance with this section is achieved. The notice shall be made personally or by mail to the licensee's last known mailing address on file with the board. Service by mail shall be complete in accordance with Section 1013 of the Code of Civil Procedure.
- (C) The 150-day notice period shall not be extended.
- (D) In the event that any license is suspended pursuant to this section, any funds paid by the licensee shall not be refunded by the board.
- (E) This paragraph shall not apply to licenses subject to annual renewal or annual fee.
- (f) Notices shall be developed by each board in accordance with guidelines provided by the department and subject to approval by the department. The notice shall include the address and telephone number of the local child support agency that submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that local child support agency as a condition for the issuance, renewal, or continued valid status of a license or licenses.

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- (1) In the case of applicants not subject to paragraph (3) of subdivision (e), the notice shall inform the applicant that the board shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the local child support agency that submitted the name on the certified list.
  - (2) In the case of licensees named on a supplemental list, the notice shall inform the licensee that his or her license will continue in its existing status for no more than 150 calendar days from the date of mailing or service of the notice and thereafter will be suspended indefinitely unless, during the 150-day notice period, the board has received a release from the local child support agency that submitted the name on the certified list. Additionally, the notice shall inform the licensee that any license suspended under this section will remain so until the expiration of the remaining license term, unless the board receives a release along with applications and fees, if applicable, to reinstate the license during the license term.
  - (3) The notice shall also inform the applicant or licensee that if an application is denied or a license is suspended pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The Department of Child Support Services shall also develop a form that the applicant shall use to request a review by the local child support agency. A copy of this form shall be included with every notice sent pursuant to this subdivision.

## HEALTH AND SAFETY CODE

### **123105. As used in this chapter:**

- (a) “Health care provider” means any of the following:
  - (1) A health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.
  - (2) A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.
  - (3) A home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.
  - (4) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Act.
  - (5) A podiatrist licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code.
  - (6) A dentist licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.
  - (7) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

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- (8) An optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code.
- (9) A chiropractor licensed pursuant to the Chiropractic Initiative Act.
- (10) A marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.
- (11) A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.
- (12) A physical therapist licensed pursuant to Chapter 5.7 (commencing with Section 2600) of Division 2 of the Business and Professions Code.
- (13) An occupational therapist licensed pursuant to Chapter 5.6 (commencing with Section 2570).**
- (14) A professional clinical counselor licensed pursuant to Chapter 16 (commencing with Section 4999.10) of Division 2 of the Business and Professions Code.
- (b) “Mental health records” means patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental disorder. “Mental health records” includes, but is not limited to, all alcohol and drug abuse records.
- (c) “Patient” means a patient or former patient of a health care provider.
- (d) “Patient records” means records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. “Patient records” includes only records pertaining to the patient requesting the records or whose representative requests the records. “Patient records” does not include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying under Section 123110 or 123115. “Patient records” does not include information contained in aggregate form, such as indices, registers, or logs.
- (e) “Patient’s representative” or “representative” means any of the following:
- (1) A parent or guardian of a minor who is a patient.
  - (2) The guardian or conservator of the person of an adult patient.
  - (3) An agent as defined in Section 4607 of the Probate Code, to the extent necessary for the agent to fulfill his or her duties as set forth in Division 4.7 (commencing with Section 4600) of the Probate Code.
  - (4) The beneficiary as defined in Section 24 of the Probate Code or personal representative as defined in Section 58 of the Probate Code, of a deceased patient.
- (f) “Alcohol and drug abuse records” means patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse.

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## PENAL CODE

### **11166. Child abuse neglect reporting**

- (a) Except as provided in subdivision (d), and in Section 11166.05, a mandated reporter shall make a report to an agency specified in Section 11165.9 whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report by telephone to the agency immediately or as soon as is practicably possible, and shall prepare and send, fax, or electronically transmit a written follow-up report within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any non-privileged documentary evidence the mandated reporter possesses relating to the incident.
- (1) For purposes of this article, “reasonable suspicion” means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. “Reasonable suspicion” does not require certainty that child abuse or neglect has occurred nor does it require a specific medical indication of child abuse or neglect; any “reasonable suspicion” is sufficient. For purposes of this article, the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse.
  - (2) The agency shall be notified and a report shall be prepared and sent, faxed, or electronically transmitted even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy.
  - (3) Any report made by a mandated reporter pursuant to this section shall be known as a mandated report.
- (b) If after reasonable efforts a mandated reporter is unable to submit an initial report by telephone, he or she shall immediately or as soon as is practicably possible, by fax or electronic transmission, make a one-time automated written report on the form prescribed by the Department of Justice, and shall also be available to respond to a telephone follow-up call by the agency with which he or she filed the report. A mandated reporter who files a one-time automated written report because he or she was unable to submit an initial report by telephone is not required to submit a written follow-up report.
- (c) Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until an agency specified in Section 11165.9 discovers the offense.
- (d)(1) A clergy member who acquires knowledge or a reasonable suspicion of child abuse or neglect during a penitential communication is not subject to subdivision (a). For the purposes of this subdivision, “penitential communication” means a communication, intended to be in confidence,

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including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(e)(1) Any commercial film, photographic print, or image processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape, negative, slide, or any representation of information, data, or an image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practically possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images are seen. Within 36 hours of receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written follow-up report of the incident with a copy of the image or material attached.

(2) Any commercial computer technician who has knowledge of or observes, within the scope of his or her professional capacity or employment, any representation of information, data, or an image, including, but not limited, to any computer hardware, computer software, computer file, computer floppy disk, data storage medium, CD-ROM, computer-generated equipment, or computer-generated image that is retrievable in perceivable form and that is intentionally saved, transmitted, or organized on an electronic medium, depicting a child under 16 years of age engaged in an act of sexual conduct, shall immediately, or as soon as practicably possible, telephonically report the instance of suspected abuse to the law enforcement agency located in the county in which the images or material are seen. As soon as practicably possible after receiving the information concerning the incident, the reporter shall prepare and send, fax, or electronically transmit a written follow-up report of the incident with a brief description of the images or materials.

(3) For purposes of this article, “commercial computer technician” includes an employee designated by an employer to receive reports pursuant to an established reporting process authorized by subparagraph (B) of paragraph (41) of subdivision (a) of Section 11165.7.

(4) As used in this subdivision, “electronic medium” includes, but is not limited to, a recording, CD-ROM, magnetic disk memory, magnetic tape memory, CD, DVD, thumbdrive, or any other computer hardware or media.

(5) As used in this subdivision, “sexual conduct” means any of the following:

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

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

(C) Masturbation for the purpose of sexual stimulation of the viewer.



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- (D) Sadomasochistic abuse for the purpose of sexual stimulation of the viewer.
- (E) Exhibition of the genitals, pubic, or rectal areas of any person for the purpose of sexual stimulation of the viewer.
- (f) Any mandated reporter who knows or reasonably suspects that the home or institution in which a child resides is unsuitable for the child because of abuse or neglect of the child shall bring the condition to the attention of the agency to which, and at the same time as, he or she makes a report of the abuse or neglect pursuant to subdivision (a).
- (g) Any other person who has knowledge of or observes a child whom he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect to an agency specified in Section 11165.9. For purposes of this section, “any other person” includes a mandated reporter who acts in his or her private capacity and not in his or her professional capacity or within the scope of his or her employment.
- (h) When two or more persons, who are required to report, jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.
- (i)(1) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties, and no person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article.

## WELFARE AND INSTITUTIONS CODE

### **15630. Mandatory and nonmandatory reports of abuse**

- (a) Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.
- (b)(1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone or through a confidential Internet reporting

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tool, as authorized by Section 15658, immediately or as soon as practicably possible. If reported by telephone, a written report shall be sent, or an Internet report shall be made through the confidential Internet reporting tool established in Section 15658, within two working days:

- (A) If the suspected or alleged abuse is physical abuse, as defined in Section 15610.63, and the abuse occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the following shall occur:
  - (i) If the suspected abuse results in serious bodily injury, a telephone report shall be made to the local law enforcement agency immediately, and no later than within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse, and a written report shall be made to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two hours of the mandated reporter observing, obtaining knowledge of, or suspecting the physical abuse.

(additional non-essential text not included)

- (c)(1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.
  - (2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsman program. Except in an emergency, the local ombudsman shall report any case of known or suspected abuse to the State Department of Public Health and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.
  - (3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of State Hospitals or the State Department of Developmental Services or to a local law enforcement agency. Except in an emergency, the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.
  - (4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.
  - (5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.
- (d) If two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and there is agreement among them, the telephone report or Internet report, as authorized by Section 15658, may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team.

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Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

- (e) A telephone report or Internet report, as authorized by Section 15658, of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.
- (f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(additional non-essential text not included)

- (h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610.63, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, if that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of Section 15630 discovers the offense.
- (i) For purposes of this section, "dependent adult" shall have the same meaning as in Section 15610.23.

PROPOSED/PENDING REGULATORY AMENDMENTS AND APPROVED REGULATORY AMENDMENTS WITH FUTURE EFFECTIVE DATES; CHECK THE BOARD'S WEBSITE FOR THE LATEST INFORMATION.

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#### 4101. Delegation of Certain Functions.

Except for those powers reserved exclusively to the “agency itself” under the Administrative

Procedure Act (section 11500 et seq. of the Government Code), the power and discretion conferred by law upon the Board to order an examination pursuant to section 820 of the Code, receive and file accusations and statements of issues; issue notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing and perform other functions necessary to the dispatch of the business of the Board in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings, including the authority to grant a motion to vacate a default decision, approve a settlement agreement for revocation or surrender of a license, or approve an interim license suspension; and the certification and delivery or mailing of copies of decisions under Section 11518 of the Government Code are hereby delegated to and conferred upon the executive officer of the Board.

#### 4127. Inactive Status

Upon written request, the board may grant inactive status to a license or certificate holder under the following conditions:

- (a) At the time of application for inactive status, the holder’s license or certificate shall be current and not suspended, revoked, or otherwise punitively restricted by the board.
- (b) The holder of an inactive license or certificate shall not engage in any activity for which a license or certificate is required.
- (c) An inactive license or certificate shall be renewed during the same time period in which an active license or certificate is renewed. The holder of an inactive license or certificate need not comply with any continuing education requirement for renewal of an active license.
- (d) The renewal fee for a license or certificate in an active status shall apply also for a renewal of a license or certificate in an inactive status, unless a lesser renewal fee is specified by the board.
- (e) In order for the holder of an inactive license or certificate to restore his or her license or certificate to an active status, he or she shall comply with all of the following:
  - (1) Pay the renewal fee.
  - (2) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for a single renewal period of an active license or certificate, unless a different requirement is specified by the board on a case-by-case basis.

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#### 4128. Retired Status.

- (a) On or after July 1, 2013, a holder of an occupational therapist or occupational therapy assistant license that is current and whose license is not suspended, revoked, or otherwise restricted by the board or subject to discipline, may apply for retired status, upon application and payment of the fee prescribed in section 2570.17 of the Code.
- (b) The application shall be on a form prescribed by the Board titled “Application for Retired Status” (Form ARS, New 7/2012), and shall disclose under penalty of perjury whether the licensee has been disciplined by another public agency or been convicted or pled nolo contendere to any violation of any statute in the United States or foreign country.
- (c) A license in retired status is not subject to renewal.
- (d) The holder of a license in retired status shall not engage in any activity for which an active license is required. Failure to comply with this section is unprofessional conduct and grounds for citation or discipline.
- (e) An occupational therapist holding a license in retired status shall be permitted to use the title “occupational therapist, retired” or “retired occupational therapist.” An occupational therapy assistant holding a license in retired status shall be permitted to use the title “occupational therapy assistant, retired” or “retired occupational therapy assistant.” The designation of retired shall not be abbreviated in any way. Failure to comply with this section is unprofessional conduct and grounds for citation or discipline.
- (f) In order to restore his or her license to active status the holder of a license in retired status shall:
  - (1) Complete a form prescribed by the board titled “Application to Restore License to Active Status,” (Form ARL, New 7/2012), and pay the biennial renewal fee in effect at the time the request for activation is received; and.
  - (2) Satisfy continuing competency requirements as follows:
    - (A) Complete 24 PDUs, within two (2) years preceding the date the application for reactivation is received, if the license is in retired status for a period of five (5) years or less, or
    - (B) Meet one of the requirements set forth in section 2570.14 of the Code if the license is in retired status for a period of more than five (5) years. If qualifying under 2570.14(a), the holder of a license in retired status must complete 40 PDUs as specified in section 4161(g).
- (g) A licensee may be granted a license in retired status on no more than two separate occasions.

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### **4130. Fees.**

Fees are fixed by the board as follows:

- (a) On or after July 1, 2014, the fee for processing an Initial Application for Licensure (Form ILA, Revised 8/2012) shall be fifty dollars (\$50).
- (b) The initial license fee shall be prorated pursuant to Section 4120(a)(1) and based on a biennial fee of one hundred fifty dollars (\$150).
- (c) The fee for a limited permit shall be seventy five dollars (\$75).
- (d) For the biennial renewal fee shall be one hundred fifty dollars (\$150).
- (e) The delinquency fee is one-half of the renewal fee.
- (f) The renewal fee for an inactive license shall be twenty-five dollars (\$25).
- (g) On or after July 1, 2013, the fee for an Application for Retired Status (Form ARS, New 7/2012), shall be twenty-five dollars (\$25).
- (h) The fee for a duplicate license is \$15.
- (i) The fees for fingerprint services are those charged by the California Department of Justice and the Federal Bureau of Investigation.

### **4146.5. Effective Dates of Decisions**

Unless otherwise specified in an Order of the Board, the effective date of a decision made by the Board pursuant to the Administrative Procedure Act (section 11500 et seq. of the Government Code) shall be established as follows:

- (a) A Default Decision and Order shall become effective 10-days from the date of service of the decision on the parties.
- (b) A Stipulated Settlement and Order shall become effective 10-days from the date of service of the decision on the parties.

### **4147. Disciplinary Guidelines.**

- (a) In reaching a decision on a disciplinary action under the administrative adjudication provisions of the Administrative Procedure Act (Government Code 11400 et seq.), the Board shall consider and apply Disciplinary Guidelines (October 2013), which are hereby incorporated by reference. The Disciplinary Guidelines shall apply to all disciplinary matters. Deviation from these disciplinary guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such deviation, e.g., the presence of aggravating or mitigating factors; age of the case; or evidentiary issues.
- (b) All probationers shall submit and cause each health care employer to submit quarterly reports to the Board. The reports, “Quarterly Written Report (4/2011)” and “Work Performance Evaluation (02/2011)” shall be obtained from the Board and are hereby incorporated by reference.

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#### 4147.5. Uniform Standards Related to Substance Abuse.

- (a) The Board shall also apply, as required, the Department of Consumer Affairs' Substance Abuse Coordination Committee's Uniform Standards Regarding Substance Abusing Healing Arts Licensees (April 2011), which are hereby incorporated by reference. The Uniform Standards describe the mandatory conditions that apply to a substance abusing licensee, except that the Board may impose more restrictive conditions if necessary to protect the public. Neither the board nor an administrative law judge may impose any conditions or terms of probation that are less restrictive than the Uniform Standards Related to Substance Abuse.
- (b) If the conduct found to be grounds for discipline involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for the purposes of section 315 of the Code. If the licensee does not rebut that presumption, in addition to any and all relevant terms and conditions contained in the Disciplinary Guidelines, the Uniform Standards Related to Substance Abusing Licensees shall apply as written and be used in the order placing the licensee on probation.

#### 4154. Post Professional Education and Training

- (a) Post professional education courses shall be obtained at any of the following:
  - (1) College or university degree programs accredited or approved by ACOTE;
  - (2) College or university degree programs accredited or approved by the Commission on Accreditation in Physical Therapy Education;
  - (3) Colleges or universities with Speech and Hearing Programs accredited or approved by the Council on Academic Accreditation in Audiology and Speech-Language Pathology;
  - (4) Any approved provider. To be approved by the Board the provider shall submit the following:
    - (A) A clear statement as to the relevance of the course to the advanced practice area.
    - (B) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) particularly as it relates to the advanced practice area.
    - (C) Information that shows the course instructor's qualifications to teach the content being taught (e.g., his or her education, training, experience, scope of practice, licenses held, and length of experience and expertise in the relevant subject matter), particularly as it relates to the advanced practice area.
    - (D) Information that shows the course provider's qualifications to offer the type of course being offered (e.g., the provider's background, history, experience, and similar courses previously offered by the provider), particularly as it relates to the advanced practice area; or
  - (5) A provider that has not been approved by the Board, if the applicant occupational therapist demonstrates that the course content meets the subject matter requirements set forth in sections 2570.3(e) or 2570.3(f) of the Code, or section 4153 of these regulations, and submits the following:

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- (A) Information describing, in detail, the depth and breadth of the content covered (e.g., a course syllabus and the goals and objectives of the course) particularly as it relates to the advanced practice area.
  - (B) Information that shows the course instructor's qualifications to teach the content being taught (e.g., his or her education, training, experience, scope of practice, licenses held, and length of experience and expertise on the relevant subject matter), particularly as it relates to the advanced practice area.
- (b) Post professional training shall be supervised which means, at a minimum:
- (1) The supervisor and occupational therapist have a written agreement, signed and dated by both parties prior to accruing the supervised experience, outlining the plan of supervision and training in the advanced practice area. The level of supervision is determined by the supervisor whose responsibility it is to ensure that the amount, degree, and pattern of supervision is consistent with the knowledge, skill and ability of the occupational therapist, and appropriate for the complexity of client needs and number of clients for whom the occupational therapist is providing advanced practice services.
  - (2) The supervisor is readily available in person or by telecommunication to the occupational therapist while the therapist is providing advanced practice services.
  - (3) The supervisor does not have a co-habitative, familial, intimate, business, excluding employment relationships, or other relationship that could interfere with professional judgment and objectivity necessary for effective supervision, or that violates the Ethical Standards of Practice, pursuant to section 4170.
- (c) Any course instructor providing post-professional education under section 4154(a)(4) or (5) who is a health care practitioner as defined in section 680 of the Code shall possess an active, current, and unrestricted license.
- (d) Post professional education and training must be completed within the five years immediately preceding the application for approval in each advanced practice area.

#### **4170. Ethical Standards of Practice.**

A violation of any ethical standard of practice constitutes grounds for disciplinary action. Every person who holds a license a limited permit issued by the board, or is practicing on a license issued by another state, shall comply with the following ethical standards of practice:

- (a) Occupational therapy practitioners shall comply with state and federal laws pertaining to discrimination.
  - (1) Occupational therapy practitioner's services shall be provided consistent with socio-economic factors such as economic status, age, ethnicity, race, disability, marital status, sexual orientation, gender, gender identity, religion, residence, culture and political affiliation and insurance coverage. (2) An occupational therapy practitioner offering pro bono ("for the good") or reduced-fee occupational therapy services shall exercise the same standard of care when providing those services.



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- (b) Occupational therapy practitioners shall take reasonable precautions to avoid imposing or inflicting harm upon the client or to his or her property.
- (1) Occupational therapy practitioners shall not exploit or harm recipients of occupational therapy services, students, research participants, or employees.
  - (2) Occupational therapy practitioners shall, while a relationship exists as an occupational therapy practitioner, educator, researcher, supervisor, or employer and within six (6) months of termination of occupational therapy services, avoid relationships which may include emotional, physical, psychological, financial, social or the like, or activities that interfere with professional judgment and objectivity including avoiding:
    - (A) Any sexual relationship, whether consensual or nonconsensual, with any recipient of service, including family or significant other, student, research participant, or employee, and
    - (B) Bartering for services or any relationship established as an occupational therapist or occupational therapy assistant to further one's own physical, emotional, financial, political, or business interests at the expense of the best interests of recipients of services, or the potential for exploitation and conflict of interest.
- (c) Occupational therapy practitioners shall collaborate with clients, caretakers or other legal guardians in setting goals and priorities throughout the intervention process.
- (1) Occupational therapy practitioners shall fully inform the client of the nature, risks, and potential outcomes of any interventions.
  - (2) Occupational therapy practitioners shall obtain informed consent from clients involved in research activities and indicate in the medical record that they have fully informed the client of potential risks and outcomes.
  - (3) Occupational therapy practitioners shall respect the client's right to refuse services.
  - (4) Occupational therapy practitioners shall maintain patient confidentiality unless otherwise mandated by local, state or federal regulations.
- (d) Occupational therapy practitioners shall perform occupational therapy services only when they are qualified by education, training, and experience to do so and shall refer to or consult with other service providers whenever such a referral or consultation is necessary for the care of the client. Such referral or consultation shall be done in collaboration with the client.
- (e) Occupational therapy practitioners shall, through professional development units required for license renewal or in other ways assure continued competence with respect to their own current practice and technology.
- (f) Occupational therapy practitioners shall report to the Board any acts committed by another occupational therapy practitioner that they have reason to believe are unethical or illegal in practice, education, research, billing, or documentation, and shall cooperate with the Board by providing information, documentation, declarations, or assistance as may be allowed by law.

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- (g) Occupational therapy practitioners shall make all other mandatory reporting to the appropriate authorities as required by law.
  - (h) Occupational therapy practitioners shall comply with the Occupational Therapy Practice Act, the California Code of Regulations, and all other related local, state, and federal laws, and shall comply with the following:
    - (1) Practice occupational therapy only when holding a current and valid license issued by the Board, and appropriate national, state, or other requisite credentials for the services they provide; and
    - (2) Practice occupational therapy within his or her own level of competence and scope of practice.
  - (i) Occupational therapy practitioners shall provide accurate information about occupational therapy services and shall accurately represent their credentials, qualifications, education, experience, training, and competence.
  - (j) Occupational therapy practitioners shall disclose any professional, personal, financial, business, or volunteer affiliations that may pose a conflict of interest to those with whom they may establish a professional, contractual, or other working relationship.
  - (k) Occupational therapy practitioners shall not use or participate in the use of any form of communication that contains false, fraudulent, deceptive statements or claims.
  - (l) Occupational therapy practitioners shall report to the Board acts constituting grounds for discipline as defined in Section 2570.28 of the Occupational Therapy Practice Act.

#### **SECTION 4172. Standards of Practice for Telehealth.**

- (a) In order to provide occupational therapy services via telehealth as defined in Section 2290.5 of the Code, an occupational therapist or occupational therapy assistant providing services to a patient or client in this State must have a valid and current license issued by the Board.
- (b) An occupational therapist shall obtain informed consent from the patient or client prior to delivering occupational therapy services via telehealth consistent with Section 2290.5 of the Code.
- (c) Prior to providing occupational therapy services via telehealth:
  - (1) an occupational therapist shall determine whether an in-person evaluation is necessary and ensure that a therapist must be available if an onsite visit is required;
  - (2) an occupational therapist shall determine whether in-person interventions are necessary. If it is determined in-person interventions are necessary, an on-site occupational therapist or occupational therapy assistant shall provide the appropriate interventions.

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- (d) In making the determination whether an in-person evaluation or in-person interventions are necessary, an occupational therapist shall consider: the complexity of the patient's/client's condition; his or her own knowledge, skills, and abilities; the nature and complexity of the intervention; the requirements of the practice setting; and the patient's/client's context and environment.
- (e) An occupational therapist or occupational therapy assistant providing occupational therapy services via telehealth must:
- (1) Exercise the same standard of care when providing occupational therapy services via telehealth as with any other mode of delivery of occupational therapy services;
  - (2) Provide services consistent with section 2570.2(k) of the Code; and
  - (3) Comply with all other provisions of the Occupational Therapy Practice Act and its attending regulations, including the ethical standards of practice set forth in section 4170, as well as any other applicable provisions of law.
- (f) Failure to comply with these regulations shall be considered unprofessional conduct as set forth in the Occupational Therapy Practice Act.



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## EXTRACT FROM DISCIPLINARY GUIDELINES

### I. INTRODUCTION

To establish consistency in disciplinary penalties for similar offenses on a statewide basis, the California Board of Occupational Therapy (Board) has adopted these uniform disciplinary guidelines for particular violations. This document, designed for use by attorney's, administrative law judges, occupational therapists, occupational therapy assistants, others involved in the disciplinary process, and ultimately the Board, may be revised from time to time and shall be distributed to interested parties upon request.

These guidelines include general factors to be considered, probationary terms, and guidelines for specific offenses. The guidelines for specific offenses reference the applicable statutory and regulatory provision(s).

For purposes of this document, the term "license" includes the occupational therapy license and the occupational therapy assistant certificate. The terms and conditions of probation are divided into two general categories:

- (1) Standard Conditions are those conditions of probation which will generally appear in all cases involving probation as a standard term and condition; and
- (2) Optional Conditions are those conditions which address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case.

Except as provided in the Uniform Standards Related to Substance Abuse, the Board recognizes that these recommended penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations, as discussed herein. If there are deviations from the guidelines, the Board requests that the Administrative Law Judge hearing the matter include an explanation in the Proposed Decision so that the circumstances can be better understood and evaluated by the Board upon review of the Proposed Decision and before final action is taken.

### II. GENERAL CONSIDERATIONS

The Board requests that Proposed Decisions following administrative hearings include the following:

- a. Specific code sections violated with their definitions.
- b. Clear description of the violation.
- c. Respondent's explanation of the violation if he/she is present at the hearing.
- d. Findings regarding aggravation, mitigation, and rehabilitation where appropriate.
- e. When suspension or probation is ordered, the Board requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure from the recommended terms is clearly set forth in the findings and supported by the evidence.

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Factors to be Considered - In determining whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

- a. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
- b. Actual or potential harm to any consumer, client or the general public.
- c. Prior disciplinary record.
- d. Number and/or variety of current violations.
- e. Mitigation evidence.
- f. Rehabilitation evidence.
- g. In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
- h. Overall criminal record.
- i. Time passed since the act(s) or offense(s) occurred.
- j. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.
- k. Recognition by respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

### III. DEFINITION OF PENALTIES

**Revocation:** Loss of a license as the result of any one (1) or more violations of the Occupational Therapy Practice Act. Revocation of a license is permanent, unless the respondent takes affirmative action to petition the Board for reinstatement of his/her license and demonstrates to the Board's satisfaction that he/she is rehabilitated.

**Suspension:** Invalidation of a license for a fixed period of time, not to exceed one (1) year.

**Stayed Revocation:** Revocation of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

**Stayed Suspension:** Suspension of a license, held in abeyance pending respondent's compliance with the terms of his/her probation.

**Probation:** A period during which a respondent's discipline is stayed in exchange for respondent's compliance with specified conditions relating to improving his/her conduct or preventing the likelihood of a recurrence of the violation.

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## IV. DISCIPLINARY GUIDELINES

The offenses are listed by statute number in the Business and Professions Code. The standard terms of probation as stated herein shall be included for all probations. The optional conditions of probation as stated herein are to be considered and imposed along with any other optional conditions if facts and circumstances warrant. The number(s) in brackets listed after each condition of probation refers to the conditions listed on pages 15-24.

### BUSINESS AND PROFESSIONS CODE SECTIONS – OCCUPATIONAL THERAPY PRACTICE ACT

**Section 2570.23: Violation of 2570.3 - Unlicensed Person Engaging in Practice - Sanctions**

Applicant Maximum: Denial of application for a license

Applicant Minimum: Thirty (30) days actual suspension and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#26 and #30]

**Section 2570.28(a)(1),(2),or(3): Unprofessional Conduct – Incompetence, Gross Negligence, Repeated Negligent Acts, Conviction of Practicing Medicine**

Maximum: Revocation

Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:

- a. Standard conditions [#1- #13]
- b. Optional conditions [#23, #25, #26, #28, #30]

**Section 2570.28(a)(4): Unprofessional Conduct – False Advertising**

Maximum: Revocation

Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#26 and #30]

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**Section 2570.28(a)(5): Unprofessional Conduct – Discipline by Other Government Agency**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]

**Section 2570.28(b): Procuring a License by Fraud, Misrepresentation, Mistake**

Maximum: Revocation

Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#23, #26, #28]

**Section 2570.28(c): Violating Any Provision of the Occupational Therapy Practice Act or Regulations**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]

**Section 2570.28(d): False Statement on Application for License or Renewal**

Maximum: Revocation

Minimum: Stayed revocation, thirty (30) days suspension and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#26 and #30]

**Section 2570.28(e): Conviction of Crime Substantially Related to License**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#26, #27, #28, #30]



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**Section 2570.28(f) or (g): Impersonating an Applicant or Acting as Proxy for Another in an Examination for Licensure, Impersonating a Licensee or Allowing Another Person to Use License**

Maximum: Revocation

Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#26 and #30]

**Section 2570.28(h): Committing Fraud, Dishonest or Corrupt Act**

Maximum: Revocation

Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#26 and #30]

**Section 2570.28(i): Committing Any Act Punishable as Sexually Related Crime**

Maximum: Revocation

Minimum: Stayed revocation, ninety (90) days actual suspension and five (5) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional Conditions [#15, #16, #24, #26, #30]

**Section 2570.28(j): Using Excessive Force, Mistreating or Abusing Patient**

Maximum: Revocation

Minimum: Stayed revocation, ninety (90) days actual suspension and five (5) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#15, #16, #25, #26, 30]

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**Section 2570.28(k): Falsifying, Making Grossly Incorrect, Inconsistent, or Unintelligible Entries in Patient/Hospital Record**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]

**Section 2570.28(l): Changing the Prescription of Physician or Falsifying Verbal or Written Orders**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]

**Section 2570.28(m): Failing to Maintain Patient Confidentiality**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]

**Section 2570.28(n): Delegating Services that Require License to Unlicensed Person**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]

**Section 2570.28(o): Committing Act that would be Grounds for Denial under Section 480**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]

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**Section 2570.28(p): Failing to Follow Infection Control Guidelines**

Maximum: Revocation

Minimum: Stayed revocation and one (1) year probation on the following conditions:

- a. Standard conditions [#1-#13]

**Section 2570.29(a): Obtain, Possess, Administer to Self, Furnish or Administer to Others, Controlled Substance**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]

**Section 2570.29(b)(1)(2) or (3): Use Controlled Substance, Dangerous Drug, Alcohol in Manner Dangerous, Injurious to Self or Others**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]

**Section 2570.29(c): Conviction of Crime Involving Controlled Substance, Dangerous Drug, Alcohol or Falsifying a Record Involving Same**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #28, #31]

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**Section 2570.29(d): Committed or Confined by Court for Intemperate Use of Controlled Substance, Dangerous Drug, Alcohol**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #28, #31]

**Section 2570.29(e): Falsify, Make Grossly Incorrect, Inconsistent, or Unintelligible Entries in Hospital/Patient Record involving Controlled Substance or Dangerous Drug**

Maximum: Revocation

Minimum: Stayed revocation and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#14, #17, #18, #19a and/or 19b or 19c, #20, #21, #22, #24, #31]

**GENERAL PROVISIONS OF BUSINESS AND PROFESSIONS CODE**

**Section 119: Misdemeanor Pertaining to Use of a License**

Maximum: Revocation

Minimum: Stayed revocation and one (1) year probation on the following conditions:

- a. Standard conditions [#1-#13]

**Section 125: Misdemeanor Pertaining to Conspiring with Unlicensed Person for Use of a License**

Maximum: Revocation

Minimum: Stayed revocation and one (1) year probation on the following conditions:

- a. Standard conditions [#1-#13]

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**Section 125.6: Discrimination by Licensee**

Maximum: Revocation

Minimum: Stayed revocation and one (1) year probation on the following conditions:

- a. Standard conditions [#1-#13]

**Section 480(a): Denial of Licenses**

Maximum/Minimum: Denial of license

**Section 480(c): Denial of Licenses**

Maximum/Minimum: Denial of license

**Section 496: Subversion of Licensing Examinations or Administration of Examinations.**

Maximum: Denial or revocation of license

Minimum: Stayed revocation, thirty (30) days actual suspension and three (3) years probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#23, #26, #30]

**Section 726: Sexual Abuse, Misconduct, or Relations with a Patient or Client**

Maximum: Revocation

Minimum: Stayed revocation and one (1) year probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#25, #26, #30]

**Section 730: Performing Medical Evaluation Without Certification**

Maximum: Revocation

Minimum: Stayed revocation and one (1) year probation on the following conditions:

- a. Standard conditions [#1-#13]

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## Section 810: Fraudulent Claims

Maximum: Revocation

Minimum: Stayed revocation and one (1) year probation on the following conditions:

- a. Standard conditions [#1-#13]
- b. Optional conditions [#26, #27, #30]

## REHABILITATION CRITERIA

When considering the denial of an occupational therapy practitioner license under section 480 of the Business and Professions Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial, which also could be considered as grounds for denial under section 480 of the Business and Professions Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.

When considering the suspension or revocation of the license of an occupational therapy practitioner on the grounds that the person licensed has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for a license, shall consider the following criteria:

- (1) The nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) The extent to which the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.



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