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MOCK-UP OF AMENDMENTS SUBMITTED TO LEGISLATIVE COUNSEL

BILL NUMBER: SB 707  
AMENDED BILL TEXT

AMENDED IN SENATE APRIL 22, 2009

INTRODUCED BY Senator DeSaulnier  
(Coauthor: Assembly Member Beall)

FEBRUARY 27, 2009

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

LEGISLATIVE COUNSEL'S DIGEST

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

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

This bill would establish similar licensure, registration, and certification provisions relating to alcohol and other drug counselors to be administered by the State Department of Alcohol and Drug Programs, and would authorize the department to commence issuing these licenses, registrations, and certificates on January 1, 2011. The bill would make a violation of these provisions a crime. The bill would authorize the department to assess related fees, and would require deposit of the fees into the Alcohol and Other Drug Counselor License Fund, which the bill would establish for expenditure for the purposes of this bill, upon appropriation by the Legislature.

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

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

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

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

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

PART 4. Alcohol and other Drug Counselor Licensing and Certification

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CHAPTER 1. GENERAL PROVISIONS

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

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

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

(a) "Certified Alcohol and Other Drug Counselor" or "CAODC" means a person certified by the department pursuant to Section 11975.35 or 11975.36 to practice alcohol and drug counseling ~~under clinical supervision~~ in a program licensed or certified by the department under this division.

~~(b) "Certified Alcohol and Other Drug Counselor Advanced" or "CAODC-A" means a person certified by the department pursuant to Section 11975.37 or 11975.38 to practice alcohol and drug counseling in a program licensed or certified by the department under this division.~~

~~(c)~~ (b) "Certified Alcohol and Other Drug Counselor-Clinical Supervisor" or "CAODC-CS" means a person certified by the department pursuant to Section 11975.39 or 11975.40 to practice alcohol and drug counseling in a program licensed or certified by the department under this division, and who may provide clinical supervision to registrants ~~and CAODCs. and CAODC-As.~~

~~(d)~~ (c) "Licensed Alcohol and Other Drug Counselor" or "LAODC" means a person licensed by the department pursuant to Section 11975.41 or 11975.42 to practice alcohol and other drug counseling, and who may provide clinical supervision to any other person licensed, certified, or registered under this part and who may maintain an independent counseling practice *outside of a program licensed or certified by the department under this division.*

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

~~(f)~~ (e) "Advertise" includes, but is not limited to, the issuance of any card, sign, or device to any person, or the causing, permitting, or allowing of any sign or marking on or in any building or structure, or in any newspaper or magazine or in any directory, or any printed matter, with or without any limiting qualification. It also includes business solicitations communicated by radio or television broadcasting, the Internet, or any other electronic medium.

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

~~(h)~~ (g) ~~Supervision~~ **Clinical supervision** means responsibility for, and control of, the quality of alcohol and other drug counseling

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services being provided. Consultation or peer discussion shall not be considered to be **clinical** supervision. "Supervisee" means a registrant or certified or licensed counselor under this part, as the case may be, who is seeking to meet the supervised experience requirements of this part.

CHAPTER 2. ADMINISTRATION

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

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

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

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

(b) Develop standards for registration, certification, and licensure of alcohol and other drug counselors, including those persons presently certified pursuant to regulations adopted by the department so that they have an opportunity for certification or licensure under this part with appropriate credit for the education, training, and experience obtained prior to the department's implementation of this part. The department ~~shall~~ **may, not before January 1, 2015,** establish **voluntary** standards for **advanced multiple** levels of alcohol and other drug counselors and ~~may establish~~ subspecialties with distinct requirements.

(c) Issue licenses, certificates, and registrations beginning January 1, ~~2011~~ **2012**, to those who meet the qualifications of this part and any regulations promulgated pursuant to this part.

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

(e) Establish continuing education requirements.

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

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

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

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

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

(k) Develop or adopt one or more examinations for administering to

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prospective certificants and licensees. The test may be administered by the department or by any public or private entity selected by the department.

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

***(m) Establish an advisory committee composed of one or more representatives of consumers, counselors, counselor employers, counties, educators, referral sources and such other persons as the director may determine, which shall meet at least two times per year and which shall make recommendations to the department concerning curriculum, criminal background checks, unprofessional conduct and such other matters as the department may refer to the committee.***

CHAPTER 3. LICENSING AND CERTIFICATION

11975.30. (a) The department shall certify or license, at the appropriate level specified in Section 11975.36, ~~11975.38~~, 11975.40, or 11975.42, as applicable, each person who the department determines was certified as a counselor on December 31, ~~2010~~ **2011**, in accordance with regulations of the department in effect on that date .

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

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

(d) The department shall specify by regulation the conditions under which persons registered to become certified, pursuant to the department's regulations in effect on December 31, ~~2010~~ **2011**, may be eligible to be registered or certified under this part and receive appropriate credit for education, supervised experience, and work experience previously completed.

(e) The department shall not issue a registration, certification, or license pursuant to this section unless a complete application is received by December 31, ~~2013~~ **2014**.

11975.35. Commencing January 1, ~~2011~~ **2012**, the department shall issue a Certified Alcohol and Other Drug Counselor (CAODC) certificate to each person who meets all of the following requirements:

(a) Meets either of the following:

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

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

***(b) Completes both of the following:***

***(1) Six hours of education in the subject of law and ethics as it relates to a licensee's ability to practice alcoholism and drug abuse counseling safely. This education may include, but shall not be limited***

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*to, education in the legal and regulatory aspects of chemical dependency treatment, regulatory restrictions, confidentiality, issues surrounding clients' rights, and standards of competency for the practice of alcoholism and drug abuse counseling.*

*(2) Ten hours of education in the recognition of co-occurring disorders, referral processes, and the evaluation of clients using placement criteria, such as the ASAM Patient Placement Criteria or other validated clinical tools, to determine the most appropriate level of care for the client and eligibility for admission to a particular alcoholism and drug abuse treatment program.*

~~(b)(c)~~ Passes the test specified in Section 11975.50.

~~(e)(d)~~ Completes 250 hours of supervised experience as specified in Section 11975.55.

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

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

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

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

11975.36. Commencing January 1, ~~2011~~ **2012**, and ceasing with the disposition of all complete applications actually received by the department by December 31, ~~2013~~ **2014**, the department shall issue a Certified Alcohol and Other Drug Counselor (CAODC)/ Previously Certified certificate pursuant to Section 11975.30 to each person who the department determines was certified as a counselor on December 31, ~~2010~~ **2011**, in accordance with regulations of the department in effect on that date, and who meets all of the following requirements:

(a) Submits to a state and federal level criminal offender record information search not later than June 30, ~~2011~~ **2012**, and passes both background checks as specified in Section 11976.45.

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

(c) Completes the application for a certificate.

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

~~(a) Meets either of the following:~~

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

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

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

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

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

~~(e) Submits to a state and federal level criminal offender record information search and passes both background checks as specified in~~

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~~Section 11976.45.~~

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

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

~~11975.38. Commencing January 1, 2011, and ceasing with the disposition of all complete applications actually received by the department by December 31, 2013, the department shall issue a Certified Alcohol and Other Drug Counselor-Advanced (CAODC-A)/ Previously Certified certificate pursuant to Section 11975.30 to each person who the department determines was certified as a counselor on December 31, 2010, in accordance with regulations of the department in effect on that date, and who meets all of the following requirements:~~

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

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

~~(c) Completes the application for a certificate.~~

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

11975.39. Commencing January 1, ~~2011~~ 2012, the department shall issue a Certified Alcohol and Other Drug Counselor-Clinical Supervisor (CAODC-CS) certificate to each person who meets all of the following requirements:

(a) Meets both of the following:

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

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

(2) Completes all of the following:

(A) Forty hours of education in clinical supervision techniques.

(B) Six hours of education in the subject of law and ethics as it relates to a licensee's ability to practice alcoholism and drug abuse counseling safely. This education may include, but shall not be limited to, education in the legal and regulatory aspects of chemical dependency treatment, regulatory restrictions, confidentiality, issues surrounding clients' rights, and standards of competency for the practice of alcoholism and drug abuse counseling.

(C) Ten hours of education in the recognition of co-occurring disorders, referral processes, and the evaluation of clients using placement criteria, such as the ASAM Patient Placement Criteria or other validated clinical tools, to determine the most appropriate level of care for the client and eligibility for admission to a particular alcoholism and drug abuse treatment program.

(b) Passes the test specified in Section 11975.50.

(c) Completes 550 hours of supervised experience as specified in

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Section 11975.55. Up to ~~400 hours credited to obtain a CAODC-A certificate, that may include up to~~ 250 hours credited to obtain a CAODC certificate, may be applied toward this requirement.

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

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

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

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

11975.40. Commencing January 1, ~~2011~~ **2012**, and ceasing with the disposition of all complete applications actually received by the department by December 31, ~~2013-2014~~, the department shall issue a Certified Alcohol and Other Drug Counselor-Clinical Supervisor (CAODC-CS)/ Previously Certified certificate pursuant to Section 11975.30 to each person who the department determines was certified as a counselor on December 31, ~~2010~~ **2011**, in accordance with regulations of the department in effect on that date, and who meets all of the following requirements:

(a) Submits to a state and federal level criminal offender record information search not later than June 30, ~~2011~~ **2012**, and passes both background checks as specified in Section 11976.45.

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

(c) Completes the application for a certificate.

(d) Prior to January 1, ~~2011~~ **2012**, complies with ~~all~~ **one or more** of the following:

(1) Meets the requirements of Section 11975.39.

(2) Possesses an advanced certification issued by one of the certifying organizations recognized by the department under its regulations in effect on December 31, ~~2010~~ **2011**, which certification the department determines by regulation makes the holder eligible for certification at the CAODC-CS level.

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

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

11975.41. Commencing January 1, ~~2011~~ **2012**, the department shall issue a Licensed Alcohol and Other Drug Counselor (LAODC) license to a person who meets all of the following requirements:

(a) Possesses an earned Master of Arts, Master of Science, or Doctorate degree in alcohol and drug counseling, psychology, ~~or~~ social work, or other **clinically-focused** major or an equivalent degree recognized by the department by regulation, from an institution of higher learning accredited by the Western Association of Schools and Colleges or an equivalent ~~regional~~ accrediting agency approved by the United States Department of Education.

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(b) Completes ~~a course of education as specified in paragraph (3) of subdivision (b) of Section 11976.50 specifically directed to the competencies of clinical supervision.~~ all of the following:

(1) *Forty hours of education in clinical supervision techniques.*

(2) *Six hours of education in the subject of law and ethics as it relates to a licensee's ability to practice alcoholism and drug abuse counseling safely. This education may include, but shall not be limited to, education in the legal and regulatory aspects of chemical dependency treatment, regulatory restrictions, confidentiality, issues surrounding clients' rights, and standards of competency for the practice of alcoholism and drug abuse counseling.*

(3) *Ten hours of education in the recognition of co-occurring disorders, referral processes, and the evaluation of clients using placement criteria, such as the ASAM Patient Placement Criteria or other validated clinical tools, to determine the most appropriate level of care for the client and eligibility for admission to a particular alcoholism and drug abuse treatment program.*

(c) Passes the test specified in Section 11975.50.

(d) Completes ~~2,000~~ **3,200** hours of supervised experience as specified in Section 11975.55.

(e) Completes ~~6,000~~ **4,800** hours of work experience as specified in Section 11975.60.

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

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

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

11975.42. Commencing January 1, ~~2011~~ **2012**, and ceasing with the disposition of all complete applications actually received by the department by December 31, ~~2013~~ **2014**, the department shall issue a Licensed Alcohol and Other Drug Counselor (LAODC)/ Previously Certified Counselor license pursuant to Section 11975.30 to each person who the department determines was certified as a counselor on December 31, ~~2010~~ **2011**, in accordance with regulations of the department in effect on that date, and who meets all of the following requirements:

(a) Submits to a state and federal level criminal offender record information search not later than June 30, ~~2011~~ **2012**, and passes both background checks as specified in Section 11976.45.

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

(c) Completes the application for a certificate.

(d) Prior to January 1, ~~2011~~ **2012**, meets the requirements of Section 11975.41, or possesses an advanced certification issued by one of the certifying organizations recognized by the department under its regulations in effect on December 31, ~~2010~~ **2011**, which certification the department determines by regulation makes the holder eligible for licensure as an LAODC.

11975.45. The educational qualifications required for registration, certification, or licensure pursuant to this part shall meet both of the following requirements:

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

(1) For all counselors, "Addiction Counseling Competencies," Technical Assistance Publication Series No. 21, 2006, published by the United States Department of Health and Human Services, Substance Abuse

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and Mental Health Services Administration, Center for Substance Abuse Treatment.

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

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

(b) Education provided by any of the following, as applicable:

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

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

(3) An education provider accredited in the alcohol and other drug counseling field by the National Commission for Certifying Agencies **or otherwise recognized by the department**, provided that any education delivered on or after January 1, ~~2011~~ **2012**, shall be recognized by the department only if it has been validated to effectively cover the curriculum specified pursuant to this part.

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

~~(a)~~ (1) Nationally recognized.

~~(b)~~ (2) Validated to cover the curriculum specified pursuant to this part.

~~(c)~~ (3) Administered at a frequency and under conditions providing reasonable access and security.

**(b) The department may provide for administration of tests by such means as it finds appropriate, including but not limited to direct administration by the department, one or more contracts with others, recognition of administration by others, or any of these.**

11975.55. The supervised experience required by this part shall meet all of the following criteria:

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

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

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

(3) The required hours of supervised experience shall be obtained over a period of not less than ~~one two year~~ **years** and shall have been

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gained within the six years immediately preceding the date on which the application for certification or licensure was filed.

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

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

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

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

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

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

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

(e) Experience shall not be gained prior to becoming a registrant.

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

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

(h) A supervisee may receive **clinical** supervision from a person not employed by the supervisee's employer if that person has signed a written agreement with the employer to take supervisory responsibility for the supervisee's alcohol and other drug counseling.

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

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

11975.60. The work experience required by this part shall meet all of the following criteria:

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

(b) No hours of experience may be gained more than six years prior

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to the date the application for registration, certification, or licensure, as applicable, was filed, except as specifically **provided** otherwise ~~provided~~ in this part.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) A cleric or other religious leader who provides **spiritual** advice and guidance to members of his or her congregation or order, **or to**

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*other persons if it is free of charge.*

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

11975.75. (a) An individual licensed, ~~or~~ certified **or registered** under this part may engage in the practice of alcohol and drug counseling. For purposes of this part, the "practice of alcohol and drug counseling" means ~~performing any of the following services the following~~ for the purpose of treating alcohol and drug abuse:

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

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

*Alcohol, and drug counseling is a process involving a therapeutic relationship between a client who is experiencing addiction, dependence or abuse of alcohol or other drugs and a counselor or therapist trained to provide that help to address that addiction, dependence or abuse. It includes the professional and ethical application of basic tasks and responsibilities which include clinical evaluation; treatment planning; referral; service coordination; client, family, and community education; client, family, and group counseling; and documentation. It also includes understanding and application of the limits of the counselor's own qualifications and scope of practice, including but not limited to screening and, as indicated, referral to or consultation with an appropriately licensed mental health practitioner consistent with the client's needs.*

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

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

11975.85. A person who has received a **registration**, certificate or

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license under this part may use the title "**Registered Alcohol and Other Drug Counselor**" or "**RAODC**," "Certified Alcohol and Other Drug Counselor" or "CAODC," ~~"Certified Alcohol and Other Drug Counselor - Advanced" or "CAODC-A,"~~ "Certified Alcohol and Other Drug Counselor - Clinical Supervisor" or "CAODC-CS," or "Licensed Alcohol and Other Drug Counselor" or "LAODC," in accordance with the type of **registration, certificate or license** possessed. Every person who styles himself or herself or who holds himself or herself out to be a **Registered Alcohol and Other Drug Counselor, Certified Alcohol and Other Drug Counselor, Certified Alcohol and Other Drug Counselor - Advanced, Certified Alcohol and other Drug Counselor-Clinical Supervisor, or Licensed Alcohol and Other Drug Counselor** without holding a license or certification in good standing under this part, is guilty of a misdemeanor.

11975.90. It is unlawful for a person to engage in the practice of alcohol and other drug counseling unless at the time of so doing the person holds a valid, unexpired, and unrevoked **registration, certificate or license** under this part. ***This section shall become operative January 1, 2012.***

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

(a) The conviction of a crime which permits denial of a license, certification, or registration pursuant to Section 11976.45 ***or which the department finds is substantially related to the practice of alcohol and drug counseling.***

(b) Securing a license, certification, or registration by fraud, deceit, or misrepresentation on any application submitted to the department, whether engaged in by an applicant for a license, certification, or registration, or in support of any application by another.

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

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

(e) Violating, attempting to violate, or conspiring to violate this

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part or any regulation adopted by the department.

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

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

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

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

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

(k) Soliciting or engaging in sexual relations with a client or with a former client within two years from the termination date of treatment.

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

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

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

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

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

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

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

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

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

(u) Failure to comply with the elder and dependent adult abuse

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reporting requirements of Section 15630 of the Welfare and Institutions Code.

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

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

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

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

11976.25. (a) A person who has applied for or received a license, certification, or registration from the department under this part has the right to appeal an adverse decision of the department with regard to his or her application, license, certificate, or registration.

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

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

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

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

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

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

(1) The department shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all alcohol and other drug counselor licensure, certification, or registration applicants, as defined by Section 11975.25, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

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

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

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

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

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

(c) Before issuing a registration, certification, or license , the

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department shall ensure that the state and federal level criminal history of the applicant is reviewed.

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

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

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

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

**(B) After the expiration of three years from the date of conviction, if a person described in subdivision (A) is on parole, he or she may be registered, certified or licensed, conditioned upon the written approval of his or her parole officer or the Board of Parole Hearings, as the Board of Parole Hearings may provide. Withdrawal of the approval of the parole officer or the Board of Parole Hearings may be made upon such terms as the Board of Parole Hearings may provide, on written notice to the counselor/parolee and to the department. In the event of withdrawal of the approval, the counselor/parolee's registration, certification or licensure shall be revoked by the department upon receipt by the department of the notice of withdrawal of approval, without further recourse against the department. The withdrawal of approval shall be subject to review by the Board of Parole Hearings upon such terms as the Board of Parole Hearings may provide. If the approval is reinstated, the department shall reinstate the counselor/parolee if he or she is otherwise eligible for reinstatement under this part and complies with all applicable requirements.**

**(C) The provisions of subdivision (B) shall also apply to a person convicted of a crime which the department finds is substantially related to the practice of alcohol and drug counseling.**

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

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

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

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

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

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

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

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

(c) To renew an expired license or certification within three years

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of its expiration, the counselor shall, as a condition precedent to renewal, do all of the following:

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

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

(3) Pay all delinquency fees.

(4) Complete the applicable continuing education requirements.

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

(d) A license or certification that is not renewed within three years after its expiration may be reinstated if the counselor satisfies requirements set forth in regulation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11976.95. Nothing in this part shall apply to any alcohol and other drug counselor from outside this state, when in actual consultation with a licensed practitioner of this state, or when an invited guest of a professional association, or of an educational institution for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is at the time of the consultation, lecture, or demonstration licensed to practice alcohol and other drug counseling in the state or country in which he or she resides. These alcohol and other drug counselors shall not open an

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office or appoint a place to meet clients or receive calls from clients within the limits of this state.

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

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

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

(2) Passes the current applicable examination.

(3) Pays the required fees.

(4) Passes the required background check.

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

CHAPTER 4. FISCAL PROVISIONS

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

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

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

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

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

~~(4) (3) The fee for a written examination administered by or on behalf of the department shall be one hundred fifty dollars (\$150).~~

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

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

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

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

~~(7) (4) The fee for issuance of an initial license or certification shall be one hundred fifty-five dollars (\$155).~~

~~(8) (5) The fee for a license or certification renewal shall be one hundred fifty-five dollars (\$155).~~

~~(9) (6) The fee for an inactive license or certification renewal shall be seventy-seven dollars and fifty cents (\$77.50).~~

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~~(10)~~ (7) The renewal delinquency fee shall be seventy-five dollars (\$75). A person who permits his or her license or certification to expire is subject to the delinquency fee.

~~(11)~~ (8) The fee for issuance of a replacement registration, license, or certificate shall be twenty dollars (\$20).

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

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

~~(14)~~ (11) The fee for the state level criminal offender record information search shall be set by the Department of Justice and the fee for the federal level criminal offender record information search shall be set by the Federal Bureau of Investigation.

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

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

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

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by any public or private school.
- (4) A classified employee of any public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (9) Any employee of a county office of education or the State Department of Education, whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.
- (17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.

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(18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.

(19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.

(20) A firefighter, except for volunteer firefighters.

(21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

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

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

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

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

(27) A coroner.

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

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

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

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

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

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

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

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

(34) Any employee of any police department, county sheriff's

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department, county probation department, or county welfare department.

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

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

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

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

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

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

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

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

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

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

15630. (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. An alcohol and other drug counselor or supervisor licensed, certified, or registered pursuant to Part 4 (commencing with Section 11975.10) of Division 10.5 of the Health and Safety Code is also 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,

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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 immediately or as soon as practicably possible, and by written report sent within two working days, as follows:

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

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

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

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

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

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

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

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

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

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

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, "penitential communication" means a communication that is intended to be in confidence, 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which

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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 ombudsperson program. Except in an emergency, the local ombudsperson 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 Mental Health or the State Department of Developmental Services or to a local law enforcement agency or to the local ombudsperson. Except in an emergency, the local ombudsperson and 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) When 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 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.

(e) A telephone report 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.

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

(2) Whenever this section requires a law enforcement agency to

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report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

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

(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, where 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.

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