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BUSINESS AND PROFESSIONS CODE

GENERAL PROVISIONS

7.5. Conviction of a Crime

A conviction within the meaning of this code means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. However, a board may not deny a license to an applicant who is otherwise qualified pursuant to subdivision (b) of Section 480.

Nothing in this section shall apply to the licensure of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3.

12.5. Citations – Violation of Regulations

Whenever in any provision of this code authority is granted to issue a citation for a violation of any provision of this code, that authority also includes the authority to issue a citation for the violation of any regulation adopted pursuant to any provision of this code.

14.1. Man or Men as Person or Persons

The Legislature hereby declares its intent that the terms "man" or "men" where appropriate shall be deemed "person" or "persons" and any references to the terms "man" or "men" in sections of this code be changed to "person" or "persons" when such code sections are being amended for any purpose. This act is declaratory and not amendatory of existing law.

22. “Board” Defined

"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."

23.6. “Appointing Power” Defined

"Appointing power," unless otherwise defined, refers to the Director of Consumer Affairs.

23.7. “License” Defined

Unless otherwise expressly provided, "license" means 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.

27. Online License Lookup

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board

shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.

(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.

(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.

(13) The Acupuncture Board shall disclose information on its licensees.

(14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.

(15) The Dental Board of California shall disclose information on its licensees.

(16) The State Board of Optometry shall disclose information regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.

(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.

(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.

(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.

(f) "Internet" for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.

29.5. Family Support Orders

In addition to other qualifications for licensure prescribed by the various acts of boards under the department, applicants for licensure and licensees renewing their licenses shall also comply with Section 17520 of the Family Code.

30. Social Security Numbers

(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.
 - (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.

(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. Failure to Comply

(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.

BUSINESS AND PROFESSIONS CODE

DIVISION 1 – DEPARTMENT OF CONSUMER AFFAIRS

CHAPTER 1 – THE DEPARTMENT

100. The Department

There is in the state government, in the State and Consumer Services Agency, a Department of Consumer Affairs.

101. Department composition

The Department is comprised of:

- (a) The Dental Board of California.
- (b) The Medical Board of California.
- (c) The State Board of Optometry.
- (d) The California State Board of Pharmacy.
- (e) The Veterinary Medical Board.
- (f) The California Board of Accountancy.
- (g) The California Architects Board.
- (h) The Bureau of Barbering and Cosmetology.
- (i) The Board for Professional Engineers and Land Surveyors.
- (j) The Contractors' State License Board.
- (k) The Bureau for Private Postsecondary Education.
- (l) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation.
- (m) The Board of Registered Nursing.
- (n) The Board of Behavioral Sciences.
- (o) The State Athletic Commission.
- (p) The Cemetery and Funeral Bureau.
- (q) The State Board of Guide Dogs for the Blind.
- (r) The Bureau of Security and Investigative Services.
- (s) The Court Reporters Board of California.
- (t) The Board of Vocational Nursing and Psychiatric Technicians.
- (u) The Landscape Architects Technical Committee.
- (v) The Division of Investigation.
- (w) The Bureau of Automotive Repair.
- (x) The Respiratory Care Board of California.
- (y) The Acupuncture Board.
- (z) The Board of Psychology.
- (aa) The California Board of Podiatric Medicine.
- (ab) The Physical Therapy Board of California.
- (ac) The Arbitration Review Program.
- (ad) The Physician Assistant Committee.
- (ae) The Speech-Language Pathology and Audiology Board.
- (af) The California Board of Occupational Therapy.
- (ag) The Osteopathic Medical Board of California.

- (ah) The Naturopathic Medicine Committee.
- (ai) The Dental Hygiene Committee of California.
- (aj) The Professional Fiduciaries Bureau.
- (ak) Any other boards, offices, or officers subject to its jurisdiction by law.

101.6. Purpose

The boards, bureaus, and commissions in the department are established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California.

To this end, they establish minimum qualifications and levels of competency and license persons desiring to engage in the occupations they regulate upon determining that such persons possess the requisite skills and qualifications necessary to provide safe and effective services to the public, or register or otherwise certify persons in order to identify practitioners and ensure performance according to set and accepted professional standards. They provide a means for redress of grievances by investigating allegations of unprofessional conduct, incompetence, fraudulent action, or unlawful activity brought to their attention by members of the public and institute disciplinary action against persons licensed or registered under the provisions of this code when such action is warranted. In addition, they conduct periodic checks of licensees, registrants, or otherwise certified persons in order to ensure compliance with the relevant sections of this code.

101.7. Board Member Meetings

(a) Notwithstanding any other provision of law, boards shall meet at least three times each calendar year. Boards shall meet at least once each calendar year in northern California and once each calendar year in southern California in order to facilitate participation by the public and its licensees.

(b) The director at his or her discretion may exempt any board from the requirement in subdivision (a) upon a showing of good cause that the board is not able to meet at least three times in a calendar year.

(c) The director may call for a special meeting of the board when a board is not fulfilling its duties.

(d) An agency within the department that is required to provide a written notice pursuant to subdivision (a) of Section 11125 of the Government Code, may provide that notice by regular mail, email, or by both regular mail and email. An agency shall give a person who requests a notice the option of receiving the notice by regular mail, email, or by both regular mail and email. The agency shall comply with the requester's chosen form or forms of notice.

(e) An agency that plans to Web cast a meeting shall include in the meeting notice required pursuant to subdivision (a) of Section 11125 of the Government Code a statement of the board's intent to Web cast the meeting. An agency may Web cast a meeting even if the agency fails to include that statement of intent in the notice.

103. Board Members – Compensation

Each member of a board, commission, or committee created in the various chapters of Division 2 (commencing with Section 500) and Division 3 (commencing with Section 5000), and in Chapter 2 (commencing with Section 18600) and Chapter 3 (commencing with Section 19000) of Division 8, shall receive the moneys specified in this section when authorized by the respective provisions. Each such member shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

The payments in each instance shall be made only from the fund from which the expenses of the agency are paid and shall be subject to the availability of money.

Notwithstanding any other provision of law, no public officer or employee shall receive per diem salary compensation for serving on those boards, commissions, committees, or the Consumer Advisory Council on any day when the officer or employee also received compensation for his or her regular public employment.

105. Board Member Oath

Members of boards in the department shall take an oath of office as provided in the Constitution and the Government Code.

105.5. Board Member Tenure

Notwithstanding any other provision of this code, each member of a board, commission, examining committee, or other similarly constituted agency within the department shall hold office until the appointment and qualification of his successor or until one year shall have elapsed since the expiration of the term for which he was appointed, whichever first occurs.

106. Removal of Board Members

The Governor has power to remove from office at any time, any member of any board appointed by him for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. Nothing in this section shall be construed as a limitation or restriction on the power of the Governor, conferred on him by any other provision of law, to remove any member of any board.

106.5. Removal of Board Members for Disclosure of Exam Questions

Notwithstanding any other provision of law, the Governor may remove from office a member of a board or other licensing entity in the department if it is shown that such

member has knowledge of the specific questions to be asked on the licensing entity's next examination and directly or indirectly discloses any such question or questions in advance of or during the examination to any applicant for that examination.

The proceedings for removal shall be conducted in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the Governor shall have all the powers granted therein.

107. Appointment of Executive Officer

Pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution, each board may appoint a person exempt from civil service and may fix his or her salary, with the approval of the Department of Personnel Administration pursuant to Section 19825 of the Government Code, who shall be designated as an executive officer unless the licensing act of the particular board designates the person as a registrar.

107.5. Board Seal

If any board in the department uses an official seal pursuant to any provision of this code, the seal shall contain the words "State of California" and "Department of Consumer Affairs" in addition to the title of the board, and shall be in a form approved by the director.

108. Functions of Boards

Each of the boards comprising the department exists as a separate unit, and has the functions of setting standards, holding meetings, and setting dates thereof, preparing and conducting examinations, passing upon applicants, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following those hearings, insofar as these powers are given by statute to each respective board.

108.5. Witness Fees

In any investigation, proceeding or hearing which any board, commission or officer in the department is empowered to institute, conduct, or hold, any witness appearing at such investigation, proceeding or hearing whether upon a subpoena or voluntarily, may be paid the sum of twelve dollars (\$12) per day for every day in actual attendance at such investigation, proceeding or hearing and for his actual, necessary and reasonable expenses and such sums shall be a legal charge against the funds of the respective board, commission or officer; provided further, that no witness appearing other than at the instance of the board, commission or officer may be compensated out of such fund.

The board, commission or officer will determine the sums due any such witness and enter the amount on its minutes.

109. Finality of Board Decisions

(a) The decisions of any of the boards comprising the department with respect to setting standards, conducting examinations, passing candidates, and revoking licenses, are not

subject to review by the director, but are final within the limits provided by this code which are applicable to the particular board, except as provided in this section.

(b) The director may initiate an investigation of any allegations of misconduct in the preparation, administration, or scoring of an examination which is administered by a board, or in the review of qualifications which are a part of the licensing process of any board. A request for investigation shall be made by the director to the Division of Investigation through the chief of the division or to any law enforcement agency in the jurisdiction where the alleged misconduct occurred.

(c) The director may intervene in any matter of any board where an investigation by the Division of Investigation discloses probable cause to believe that the conduct or activity of a board, or its members or employees constitutes a violation of criminal law.

The term "intervene," as used in paragraph (c) of this section may include, but is not limited to, an application for a restraining order or injunctive relief as specified in Section 123.5, or a referral or request for criminal prosecution. For purposes of this section, the director shall be deemed to have standing under Section 123.5 and shall seek representation of the Attorney General, or other appropriate counsel in the event of a conflict in pursuing that action.

110. Department Possession and Control

The department shall have possession and control of all records, books, papers, offices, equipment, supplies, funds, appropriations, land and other property--real or personal--now or hereafter held for the benefit or use of all of the bodies, offices or officers comprising the department. The title to all property held by any of these bodies, offices or officers for the use and benefit of the state, is vested in the State of California to be held in the possession of the department. Except as authorized by a board, the department shall not have the possession and control of examination questions prior to submission to applicants at scheduled examinations.

111. Examination Commissioners

Unless otherwise expressly provided, any board may, with the approval of the appointing power, appoint qualified persons, who shall be designated as commissioners on examination, to give the whole or any portion of any examination. A commissioner on examination need not be a member of the board but he shall have the same qualifications as one and shall be subject to the same rules.

112. Directories of Licensees

Notwithstanding any other provision of this code, no agency in the department, with the exception of the Board for Professional Engineers and Land Surveyors, shall be required to compile, publish, sell, or otherwise distribute a directory. When an agency deems it necessary to compile and publish a directory, the agency shall cooperate with the director in determining its form and content, the time and frequency of its publication, the persons to whom it is to be sold or otherwise distributed, and its price if it is sold. Any agency that

requires the approval of the director for the compilation, publication, or distribution of a directory, under the law in effect at the time the amendment made to this section at the 1970 Regular Session of the Legislature becomes effective, shall continue to require that approval. As used in this section, "directory" means a directory, roster, register, or similar compilation of the names of persons who hold a license, certificate, permit, registration, or similar indicia of authority from the agency.

113. Conferences

Upon recommendation of the director, officers, and employees of the department, and the officers, members, and employees of the boards, committees, and commissions comprising it or subject to its jurisdiction may confer, in this state or elsewhere, with officers or employees of this state, its political subdivisions, other states, or the United States, or with other persons, associations, or organizations as may be of assistance to the department, board, committee, or commission in the conduct of its work. The officers, members, and employees shall be entitled to their actual traveling expenses incurred in pursuance hereof, but when these expenses are incurred with respect to travel outside of the state, they shall be subject to the approval of the Governor and the Director of Finance.

114. Military Service

(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, 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. Relinquished Renewal Requirements for Active Members in the Armed Forces

(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.

(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.

114.5. Military Status

Commencing January 1, 2015, each board shall inquire in every application for licensure if the individual applying for licensure is serving in, or has previously served in, the military.

115. Those Licensed While Serving in the Armed Services

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.

115.4. Expedited Licensure Process for Honorably Discharged Veterans of Armed Forces

(a) Notwithstanding any other law, on and after July 1, 2016, a board within the department shall expedite, and may assist, the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged.

(b) A board may adopt regulations necessary to administer this section.

115.5. Expedited Licensure Process for Qualified Applicants in Armed Service

(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. Withdrawal of Application of Surrender of License – Continuation of Proceedings

(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.

(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. Licensure Offenses

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.

120. Surviving Spouses of a Certified Public Accountant

(a) Subdivision (a) of Section 119 shall not apply to a surviving spouse having in his or her possession or displaying a deceased spouse's canceled certified public accountant

certificate or canceled public accountant certificate that has been canceled by official action of the California Board of Accountancy.

(b) Notwithstanding Section 119, any person who has received a certificate of certified public accountant or a certificate of public accountant from the board may possess and may display the certificate received unless the person's certificate, permit, or registration has been suspended or revoked.

121. Renewal of Licensure

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. Duplicate Certificates

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. Subversion of the Licensing Examination

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.

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.

123.5. Restraining Order

Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of Section 123, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of a board, the Attorney General or the district attorney of the county.

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.

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

124. "Written Notice" Defined

Notwithstanding subdivision (c) of Section 11505 of the Government Code, whenever written notice, including a notice, order, or document served pursuant to Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), or Chapter 5 (commencing with Section 11500), of Part 1 of Division 3 of Title 2 of the Government Code, is required to be given by any board in the department, the notice may be given by regular mail addressed to the last known address of the licentiate or by personal service, at the option of the board.

125. Conspiracy with Unlicensed Person

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. Investigation and Enforcement Costs

(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).

(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. Injunction, Restitution, and Reimbursement for Code Violations

(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.

(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. Unprofessional Conduct – Discrimination

(a) (1) With regard to an applicant, 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 that person if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, he or she refuses to perform the licensed activity or aids or incites the refusal to perform that licensed activity by another licensee, or if, because of any characteristic listed or defined in subdivision (b) or (e) of Section 51 of the Civil Code, he or she makes any discrimination, or restriction in the performance of the licensed activity.

(2) Nothing in this section shall be interpreted to prevent a physician or health care professional licensed pursuant to Division 2 (commencing with Section 500) from considering any of the characteristics of a patient listed in subdivision (b) or (e) of Section 51 of the Civil Code if that consideration is medically necessary and for the sole purpose of determining the appropriate diagnosis or treatment of the patient.

(3) 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.

(4) The presence of architectural barriers to an individual with physical disabilities that conform to applicable state or local building codes and regulations shall not constitute discrimination under this section.

(b) (1) 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.

(2) Nothing in this section requires a person licensed pursuant to Division 2 (commencing with Section 500) to perform a licensed activity for which he or she is not qualified to perform.

(c) (1) "Applicant," as used in this section, means a person applying for licensed services provided by a person licensed under this code.

(2) "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.

125.8. Temporary Restraining Order Against Licensees

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 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. Citations

(a) Except with respect to persons regulated under Chapter 11 (commencing with Section 7500), and Chapter 11.6 (commencing with Section 7590) of Division 3, 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.

(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.

127. Reports to Director

Notwithstanding any other provision of this code, the director may require such reports from any board, commission, examining committee, or other similarly constituted agency within the department as he deems reasonably necessary on any phase of their operations.

128. Unlawful Sale of Goods or Services

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. For the purposes of this section, "license" includes certificate or registration. A violation of this section shall be punishable by a fine of not less than one thousand dollars (\$1,000) and by imprisonment in the county jail not exceeding six months.

128.5. Reduction of License Fees

(a) Notwithstanding any other provision of law, if at the end of any fiscal year, an agency within the Department of Consumer Affairs, except the agencies referred to in subdivision (b), has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

(b) Notwithstanding any other provision of law, if at the end of any fiscal year, the California Architects Board, the Board of Behavioral Sciences, the Veterinary Medical Board, the Court Reporters Board of California, the Medical Board of California, the Board of Vocational Nursing and Psychiatric Technicians, or the Bureau of Security and Investigative Services has unencumbered funds in an amount that equals or is more than the agency's operating budget for the next two fiscal years, the agency shall reduce license or other fees, whether the license or other fees be fixed by statute or may be determined by the agency within limits fixed by statute, during the following fiscal year in an amount that will reduce any surplus funds of the agency to an amount less than the agency's operating budget for the next two fiscal years.

129. Complaint Handling Requirements

(a) As used in this section, "board" means every board, bureau, commission, committee and similarly constituted agency in the department which issues licenses.

(b) Each board shall, upon receipt of any complaint respecting a licentiate thereof, notify the complainant of the initial administrative action taken on his complaint within 10 days of receipt. Each board shall thereafter notify the complainant of the final action taken on his complaint. There shall be a notification made in every case in which the complainant is known. If the complaint is not within the jurisdiction of the board or if the board is unable to dispose satisfactorily of the complaint, the board shall transmit the complaint together with any evidence or information it has concerning the complaint to the agency, public or private, whose authority in the opinion of the board will provide the most effective means

to secure the relief sought. The board shall notify the complainant of such action and of any other means which may be available to the complainant to secure relief.

(c) The board shall, when the board deems it appropriate, notify the person against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the licentiate in order to mediate the complaint. Nothing in this subdivision shall be construed as authorizing or requiring any board to set or to modify any fee charged by a licentiate.

(d) It shall be the continuing duty of the board to ascertain patterns of complaints and to report on all actions taken with respect to such patterns of complaints to the director and to the Legislature at least once a year. The board shall evaluate those complaints dismissed for lack of jurisdiction or no violation and recommend to the director and to the Legislature at least once a year such statutory changes as it deems necessary to implement the board's functions and responsibilities under this section.

(e) It shall be the continuing duty of the board to take whatever action it deems necessary, with the approval of the director, to inform the public of its functions under this section.

130. Terms of Office

(a) Notwithstanding any other provision of law, the term of office of any member of an agency designated in subdivision (b) shall be for a term of four years expiring on June 1.

(b) Subdivision (a) applies to the following boards or committees:

- (1) The Medical Board of California.
- (2) The California Board of Podiatric Medicine.
- (3) The Physical Therapy Board of California.
- (4) The Board of Registered Nursing.
- (5) The Board of Vocational Nursing and Psychiatric Technicians.
- (6) The State Board of Optometry.
- (7) The California State Board of Pharmacy.
- (8) The Veterinary Medical Board.
- (9) The California Architects Board.
- (10) The Landscape Architect Technical Committee.
- (11) The Board for Professional Engineers and Land Surveyors.
- (12) The Contractors' State License Board.
- (13) The State Board of Guide Dogs for the Blind.
- (14) The Board of Behavioral Sciences.
- (15) The Court Reporters Board of California.
- (16) The State Athletic Commission.
- (17) The Osteopathic Medical Board of California.
- (18) The Respiratory Care Board of California.
- (19) The Acupuncture Board.
- (20) The Board of Psychology.

131. Limit on Terms

Notwithstanding any other provision of law, no member of an agency designated in subdivision (b) of Section 130 or member of a board, commission, committee, or similarly constituted agency in the department shall serve more than two consecutive full terms.

132. Permission Required – Legal Action Against Government Agencies

No board, commission, examining committee, or any other agency within the department may institute or join any legal action against any other agency within the state or federal government without the permission of the director. Prior to instituting or joining in a legal action against an agency of the state or federal government, a board, commission, examining committee, or any other agency within the department shall present a written request to the director to do so. Within 30 days of receipt of the request, the director shall communicate his or her approval or denial of the request and his or her reasons for approval or denial to the requesting agency in writing. If the director does not act within 30 days, the request shall be deemed approved. A requesting agency within the department may override the director's denial of its request to institute or join a legal action against a state or federal agency by a two-thirds vote of the members of the board, commission, examining committee, or other agency, which vote shall include the vote of at least one public member of that board, commission, examining committee, or other agency.

134. Prorated Initial License Fees

When the term of any license issued by any agency in the department exceeds one year, initial license fees for licenses which are issued during a current license term shall be prorated on a yearly basis.

135. Repeated Examinations

No agency in the department shall, on the basis of an applicant's failure to successfully complete prior examinations, impose any additional limitations, restrictions, prerequisites, or requirements on any applicant who wishes to participate in subsequent examinations except that any examining agency which allows an applicant conditional credit for successfully completing a divisible part of an examination may require that an applicant be reexamined in those parts successfully completed if such applicant has not successfully completed all parts of the examination within a required period of time established by the examining agency. Nothing in this section, however, requires the exemption of such applicant from the regular fees and requirements normally associated with examinations.

135.5. Acceptance of ITINS

(a) The Legislature finds and declares that it is in the best interests of the State of California to provide persons who are not lawfully present in the United States with the state benefits provided by all licensing acts of entities within the department, and therefore enacts this section pursuant to subsection (d) of Section 1621 of Title 8 of the United States Code.

(b) Notwithstanding subdivision (a) of Section 30, and except as required by subdivision (e) of Section 7583.23, no entity within the department shall deny licensure to an applicant based on his or her citizenship status or immigration status.

(c) Every board within the department shall implement all required regulatory or procedural changes necessary to implement this section no later than January 1, 2016. A board may implement the provisions of this section at any time prior to January 1, 2016.

136. Change of Address Notification

(a) Each person holding a license, certificate, registration, permit, or other authority to engage in a profession or occupation issued by a board within the department shall notify the issuing board at its principal office of any change in his or her mailing address within 30 days after the change, unless the board has specified by regulations a shorter time period.

(b) Except as otherwise provided by law, failure of a licentiate to comply with the requirement in subdivision (a) constitutes grounds for the issuance of a citation and administrative fine, if the board has the authority to issue citations and administrative fines.

137. License Numbers – Inclusion in Advertising

Any agency within the department may promulgate regulations requiring licensees to include their license numbers in any advertising, soliciting, or other presentments to the public. However, nothing in this section shall be construed to authorize regulation of any person not a licensee who engages in advertising, solicitation, or who makes any other presentment to the public on behalf of a licensee. Such a person shall incur no liability pursuant to this section for communicating in any advertising, soliciting, or other presentment to the public a licensee's license number exactly as provided to him by the licensee or for failure to communicate such number if none is provided to him by the licensee.

138. Client Notification Requirement

Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its licentiates, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

139. Examination Validation Report

(a) The Legislature finds and declares that occupational analyses and examination validation studies are fundamental components of licensure programs. It is the intent of the Legislature that the policy developed by the department pursuant to subdivision (b) be used by the fiscal, policy, and sunset review committees of the Legislature in their annual reviews of these boards, programs, and bureaus.

(b) Notwithstanding any other provision of law, the department shall develop, in consultation with the boards, programs, bureaus, and divisions under its jurisdiction, and the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners, a policy regarding examination development and validation, and occupational analysis. The department shall finalize and distribute this policy by September 30, 1999, to each of the boards, programs, bureaus, and divisions under its jurisdiction and to the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. This policy shall be submitted in draft form at least 30 days prior to that date to the appropriate fiscal, policy, and sunset review committees of the Legislature for review. This policy shall address, but shall not be limited to, the following issues:

- (1) An appropriate schedule for examination validation and occupational analyses, and circumstances under which more frequent reviews are appropriate.
- (2) Minimum requirements for psychometrically sound examination validation, examination development, and occupational analyses, including standards for sufficient number of test items.
- (3) Standards for review of state and national examinations.
- (4) Setting of passing standards.
- (5) Appropriate funding sources for examination validations and occupational analyses.
- (6) Conditions under which boards, programs, and bureaus should use internal and external entities to conduct these reviews.
- (7) Standards for determining appropriate costs of reviews of different types of examinations, measured in terms of hours required.
- (8) Conditions under which it is appropriate to fund permanent and limited term positions within a board, program, or bureau to manage these reviews.

(c) Every regulatory board and bureau, as defined in Section 22 and every program and bureau administered by the department, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners, shall submit to the director on or before December 1, 1999, and on or before December 1 of each subsequent year, its method for ensuring that every licensing examination administered by or pursuant to contract with the board is subject to periodic evaluation. The evaluation shall include:

- (1) A description of the occupational analysis serving as the basis for the examination,
- (2) Sufficient item analysis data to permit a psychometric evaluation of the items;
- (3) An assessment of the appropriateness of prerequisites for admittance to the examination; and
- (4) an estimate of the costs and personnel required to perform these functions. The evaluation shall be revised and a new evaluation submitted to the director whenever, in the judgment of the board, program, or bureau, there is a substantial change in the examination or the prerequisites for admittance to the examination.

(d) The evaluation may be conducted by the board, program, or bureau, the Office of Professional Examination Services of the department, the Osteopathic Medical Board of California, or the State Board of Chiropractic Examiners or pursuant to a contract with a qualified private testing firm. A board, program, or bureau that provides for development or administration of a licensing examination pursuant to contract with a public or private entity may rely on an occupational analysis or item analysis conducted by that entity. The department shall compile this information, along with a schedule specifying when examination validations and occupational analyses shall be performed, and submit it to the appropriate fiscal, policy, and sunset review committees of the Legislature by September 30 of each year. It is the intent of the Legislature that the method specified in this report be consistent with the policy developed by the department pursuant to subdivision (b).

140. Employee Wages – Availability of Records

Any board, as defined in Section 22, which is authorized under this code to take disciplinary action against a person who holds a license may take disciplinary action upon the ground that the licensee has failed to record and preserve for not less than three years, any and all cash transactions involved in the payment of employee wages by a licensee. Failure to make these records available to an authorized representative of the board may be made grounds for disciplinary action. In any action brought and sustained by the board which involves a violation of this section and any regulation adopted thereto, the board may assess the licensee with the actual investigative costs incurred, not to exceed two thousand five hundred dollars (\$2,500). Failure to pay those costs may result in revocation of the license. Any moneys collected pursuant to this section shall be deposited in the respective fund of the board.

143. Compensation – Unlicensed Persons

(a) No person engaged in any business or profession for which a license is required under this code governing the department or any board, bureau, commission, committee, or program within the department, may bring or maintain any action, or recover in law or equity in any action, in any court of this state for the collection of compensation for the performance of any act or contract for which a license is required without alleging and proving that he or she was duly licensed at all times during the performance of that act or contract, regardless of the merits of the cause of action brought by the person.

(b) The judicial doctrine of substantial compliance shall not apply to this section.

(c) This section shall not apply to an act or contract that is considered to qualify as lawful practice of a licensed occupation or profession pursuant to Section 121.

143.5. Prohibitions to File Complaints Against a Licensee

(a) No licensee who is regulated by a board, bureau, or program within the Department of Consumer Affairs, nor an entity or person acting as an authorized agent of a licensee, shall include or permit to be included a provision in an agreement to settle a civil dispute, whether the agreement is made before or after the commencement of a civil action, that

prohibits the other party in that dispute from contacting, filing a complaint with, or cooperating with the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee or that requires the other party to withdraw a complaint from the department, board, bureau, or program within the Department of Consumer Affairs that regulates the licensee. A provision of that nature is void as against public policy, and any licensee who includes or permits to be included a provision of that nature in a settlement agreement is subject to disciplinary action by the board, bureau, or program.

(b) Any board, bureau, or program within the Department of Consumer Affairs that takes disciplinary action against a licensee or licensees based on a complaint or report that has also been the subject of a civil action and that has been settled for monetary damages providing for full and final satisfaction of the parties may not require its licensee or licensees to pay any additional sums to the benefit of any plaintiff in the civil action.

(c) As used in this section, “board” shall have the same meaning as defined in Section 22, and “licensee” means a person who has been granted a license, as that term is defined in Section 23.7.

(d) Notwithstanding any other law, upon granting a petition filed by a licensee or authorized agent of a licensee pursuant to Section 11340.6 of the Government Code, a board, bureau, or program within the Department of Consumer Affairs may, based upon evidence and legal authorities cited in the petition, adopt a regulation that does both of the following:

(1) Identifies a code section or jury instruction in a civil cause of action that has no relevance to the board’s, bureau’s, or program’s enforcement responsibilities such that an agreement to settle such a cause of action based on that code section or jury instruction otherwise prohibited under subdivision (a) will not impair the board’s, bureau’s, or program’s duty to protect the public.

(2) Exempts agreements to settle such a cause of action from the requirements of subdivision (a).

(e) This section shall not apply to a licensee subject to Section 2220.7.

144. Fingerprint Requirement

(a) Notwithstanding any other provision of law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

(1) California Board of Accountancy.

(2) State Athletic Commission.

- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Committee of the Medical Board of California.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispenser Board.
- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

BUSINESS AND PROFESSIONS CODE

CHAPTER 1.5

UNLICENSED ACTIVITY ENFORCEMENT

145. Legislative Intent

The Legislature finds and declares that:

(a) Unlicensed activity in the professions and vocations regulated by the Department of Consumer Affairs is a threat to the health, welfare, and safety of the people of the State of California.

(b) The law enforcement agencies of the state should have sufficient, effective, and responsible means available to enforce the licensing laws of the state.

(c) The criminal sanction for unlicensed activity should be swift, effective, appropriate, and create a strong incentive to obtain a license.

147. Immunity from Civil Liability

(a) Any employee designated by the director shall have the authority to issue a written notice to appear in court pursuant to Chapter 5c (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. Employees so designated are not peace officers and are not entitled to safety member retirement benefits, as a result of such designation. The employee's authority is limited to the issuance of written notices to appear for infraction violations of provisions of this code and only when the violation is committed in the presence of the employee.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any person, acting pursuant to subdivision (a) and within the scope of his or her authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the person, at the time of such arrest, had reasonable cause to believe was lawful.

148. Administrative Citations

Any board, bureau, or commission within the department may, in addition to the administrative citation system authorized by Section 125.9, also establish, by regulation, a similar system for the issuance of an administrative citation to an unlicensed person who is acting in the capacity of a licensee or registrant under the jurisdiction of that board, bureau, or commission. The administrative citation system authorized by this section shall meet the requirements of Section 125.9 and may not be applied to an unlicensed person who is otherwise exempted from the provisions of the applicable licensing act. The establishment of an administrative citation system for unlicensed activity does not preclude the use of other enforcement statutes for unlicensed activities at the discretion of the board, bureau, or commission.

149. Unlawful Advertising

(a) If, upon investigation, an agency designated in Section 101 has probable cause to believe that a person is advertising with respect to the offering or performance of services, without being properly licensed by or registered with the agency to offer or perform those services, the agency may issue a citation under Section 148 containing an order of correction that requires the violator to do both of the following:

(1) Cease the unlawful advertising.

(2) Notify the telephone company furnishing services to the violator to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(b) This action is stayed if the person to whom a citation is issued under subdivision (a) notifies the agency in writing that he or she intends to contest the citation. The agency shall afford an opportunity for a hearing, as specified in Section 125.9.

(c) If the person to whom a citation and order of correction is issued under subdivision (a) fails to comply with the order of correction after that order is final, the agency shall inform the Public Utilities Commission of the violation and the Public Utilities Commission shall require the telephone corporation furnishing services to that person to disconnect the telephone service furnished to any telephone number contained in the unlawful advertising.

(d) The good faith compliance by a telephone corporation with an order of the Public Utilities Commission to terminate service issued pursuant to this section shall constitute a complete defense to any civil or criminal action brought against the telephone corporation arising from the termination of service.

BUSINESS AND PROFESSIONS CODE

CHAPTER 2

THE DIRECTOR OF CONSUMER AFFAIRS

150. Director of Consumer Affairs

The department is under the control of a civil executive officer who is known as the Director of Consumer Affairs.

151. Appointment

The director is appointed by the Governor and holds office at the Governor's pleasure. The director shall receive the annual salary provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code, and his or her necessary traveling expenses.

152. Administration of Department

For the purpose of administration, the re-registration and clerical work of the department is organized by the director, subject to the approval of the Governor, in such manner as he deems necessary properly to segregate and conduct the work of the department.

152.5. Adjournment of License Renewal Dates

For purposes of distributing the re-registration work of the department uniformly throughout the year as nearly as practicable, the boards in the department may, with the approval of the director, extend by not more than six months the date fixed by law for the renewal of any license, certificate or permit issued by them, except that in such event any renewal fee which may be involved shall be prorated in such manner that no person shall be required to pay a greater or lesser fee than would have been required had the change in renewal dates not occurred.

152.6. Authority to Adjust License Renewal Dates

Notwithstanding any other provision of this code, each board within the department shall, in cooperation with the director, establish such license periods and renewal dates for all licenses in such manner as best to distribute the renewal work of all boards throughout each year and permit the most efficient, and economical use of personnel and equipment. To the extent practicable, provision shall be made for the proration or other adjustment of fees in such manner that no person shall be required to pay a greater or lesser fee than he would have been required to pay if the change in license periods or renewal dates had not occurred. As used in this section "license" includes "certificate," "permit," "authority," "registration," and similar indicia of authority to engage in a business or profession, and "board" includes "board," "commission," "committee," and an individual who is authorized to renew a license.

153. Investigations by Director

The director may investigate the work of the several boards in his department and may obtain a copy of all records and full and complete data in all official matters in possession of the boards, their members, officers, or employees, other than examination questions prior to submission to applicants at scheduled examinations.

154. Employment of Personnel

Any and all matters relating to employment, tenure or discipline of employees of any board, agency or commission, shall be initiated by said board, agency or commission, but all such actions shall, before reference to the State Personnel Board, receive the approval of the appointing power. To effect the purposes of Division 1 of this code and each agency of the department, employment of all personnel shall be in accord with Article XXIV of the Constitution, the law and rules and regulations of the State Personnel Board. Each board, agency or commission, shall select its employees from a list of eligibles obtained by the appointing power from the State Personnel Board. The person selected by the board, agency or commission to fill any position or vacancy shall thereafter be reported by the board, agency or commission, to the appointing power.

154.1 Legislative Findings and Declarations

(a) The Legislature hereby finds and declares all of the following:

(1) The department is currently providing opportunities for employees of agencies comprising the department who perform enforcement functions to attend an entry level enforcement academy.

(2) It is in the best interest of consumers in the state for the department to continue to provide ongoing training opportunities for employees performing enforcement functions for each agency comprising the department.

(b) The department shall continue to develop and make available training courses for employees who perform enforcement functions. The purpose of the training courses is to develop knowledge of enforcement practices for all employees who perform enforcement functions. The department shall encourage an agency executive officer, registrar, executive director, bureau chief, enforcement manager, supervisor, or staff member to attend enforcement training courses.

(c) The department shall develop the enforcement training curricula in consultation and cooperation with the office of the Attorney General and the Office of Administrative Hearings.

154.5. Representation of Personnel

If a person, not a regular employee of a board under this code, including the Board of Chiropractic Examiners and the Osteopathic Medical Board of California, is hired or under contract to provide expertise to the board in the evaluation of an applicant or the conduct of a licensee, and that person is named as a defendant in a civil action arising out of the evaluation or any opinions rendered, statements made, or testimony given to the board or its representatives, the board shall provide for representation required to defend the defendant in that civil action. The board shall not be liable for any judgment rendered against the person. The Attorney General shall be utilized in the action and his or her services shall be a charge against the board.

155. Employment of Investigators/Contracts with Investigators

(a) In accordance with Section 159.5, the director may employ such investigators, inspectors, and deputies as are necessary properly to investigate and prosecute all violations of any law, the enforcement of which is charged to the department or to any board, agency, or commission in the department.

(b) It is the intent of the Legislature that inspectors used by boards, bureaus, or commissions in the department shall not be required to be employees of the Division of Investigation, but may either be employees of, or under contract to, the boards, bureaus, or commissions. Contracts for services shall be consistent with Article 4.5 (commencing with Section 19130) of Chapter 6 of Part 2 of Division 5 of Title 2 of the Government Code. All civil service employees currently employed as inspectors whose functions are transferred as a result of this section shall retain their positions, status, and rights in accordance with Section 19994.10 of the Government Code and the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code).

(c) Nothing in this section limits the authority of, or prohibits, investigators in the Division of Investigation in the conduct of inspections or investigations of any licensee, or in the conduct of investigations of any officer or employee of a board or the department at the specific request of the director or his or her designee.

156. Interagency Contracts

(a) The director may, for the department and at the request and with the consent of a board within the department on whose behalf the contract is to be made, enter into contracts pursuant to Chapter 3 (commencing with Section 11250) of Part 1 of Division 3 of Title 2 of the Government Code or Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code for and on behalf of any board within the department.

(b) In accordance with subdivision (a), the director may, in his or her discretion, negotiate and execute contracts for examination purposes which include provisions which hold harmless a contractor where liability resulting from a contract between a board in the department and the contractor is traceable to the state or its officers, agents, or employees.

156.1. Treatment and Rehabilitation – Retention of Records

(a) Notwithstanding any other provision of law, individuals or entities contracting with the department or any board within the department for the provision of services relating to the treatment and rehabilitation of licentiates impaired by alcohol or dangerous drugs shall retain all records and documents pertaining to those services until such time as these records and documents have been reviewed for audit by the department. These records and documents shall be retained for three years from the date of the last treatment or service rendered to that licentiate, after which time the records and documents may be purged and destroyed by the contract vendor. This provision shall supersede any other provision of law relating to the purging or destruction of records pertaining to those treatment and rehabilitation programs.

(b) Unless otherwise expressly provided by statute or regulation, all records and documents pertaining to services for the treatment and rehabilitation of licentiates impaired by alcohol or dangerous drugs provided by any contract vendor to the department or to any board within the department shall be kept confidential and are not subject to discovery or subpoena.

(c) With respect to all other contracts for services with the department or any board within the department other than those set forth in subdivision (a), the director or chief deputy director may request an examination and audit by the department's internal auditor of all performance under the contract. For this purpose, all documents and records of the contract vendor in connection with such performance shall be retained by such vendor for a period of three years after final payment under the contract. Nothing in this section shall affect the authority of the State Auditor to conduct any examination or audit under the terms of Section 8546.7 of the Government Code.

156.5. Lease of Space for Examinations

The director may negotiate and execute for the department and for its component agencies, rental agreements for short-term hiring of space and furnishings for examination or meeting purposes. The director may, in his or her discretion, negotiate and execute contracts for that space which include provisions which hold harmless the provider of the space where liability resulting from use of the space under the contract is traceable to the state or its officers, agents, or employees. Notwithstanding any other provision of law, the director may, in his or her discretion, advance payments as deposits to reserve and hold examination or meeting space. Any such agreement is subject to the approval of the legal office of the Department of General Services.

157. Expenses of Prosecution

Expenses incurred by any board or on behalf of any board in any criminal prosecution or unprofessional conduct proceeding constitute proper charges against the funds of the board.

158. Refunds of Fees

With the approval of the Director of Consumer Affairs, the boards and commissions comprising the department or subject to its jurisdiction may make refunds to applicants who are found ineligible to take the examinations or whose credentials are insufficient to entitle them to certificates or licenses.

Notwithstanding any other provision of law any application fees, license fees or penalties imposed and collected illegally, by mistake, inadvertence, or error shall be refunded. Claims authorized by the department shall be filed with the State Controller, and the Controller shall draw his warrant against the fund of the agency in payment of such refund.

159. Administration of Oaths

The members and the executive officer of each board, agency, bureau, division, or commission have power to administer oaths and affirmations in the performance of any business of the board, and to certify to official acts.

159.5. Division of Investigations

There is in the department the Division of Investigation. The division is in the charge of a person with the title of chief of the division. Except as provided in Section 160, investigators who have the authority of peace officers, as specified in subdivision (a) of Section 160 and in subdivision (a) of Section 830.3 of the Penal Code, shall be in the division and shall be appointed by the director.

160. Authority of Investigators

(a) The Chief and all investigators of the Division of Investigation of the department and all investigators of the Medical Board of California and the Dental Board of California have the authority of peace officers while engaged in exercising the powers granted or performing the duties imposed upon them or the division in investigating the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws. All persons herein referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters set forth in this section.

(b) The Division of Investigation of the department, the Medical Board of California, and the Dental Board of California may employ individuals, who are not peace officers, to provide investigative services.

161. Sale of Copies of Records

The department, or any board in the department, may sell copies of any part of its respective public records, or compilations, extracts, or summaries of information contained in its public records, at a charge sufficient to pay the actual cost thereof. Such charge, and the conditions under which sales may be made, shall be determined by the director with the approval of the Department of General Services.

162. Certificate as Evidence

The certificate of the officer in charge of the records of any board in the department that any person was or was not on a specified date, or during a specified period of time, licensed, certified or registered under the provisions of law administered by the board, or that the license, certificate or registration of any person was revoked or under suspension, shall be admitted in any court as prima facie evidence of the facts therein recited.

163. Fee for Certification of Records

Except as otherwise expressly provided by law, the department and each board in the department shall charge a fee of two dollars (\$2) for the certification of a copy of any record, document, or paper in its custody or for the certification of any document evidencing the content of any such record, document or paper.

163.5. Delinquency and Reinstatement Fees

Except as otherwise provided by law, the delinquency, penalty, or late fee for any licensee within the Department of Consumer Affairs shall be 50 percent of the renewal fee for such license in effect on the date of the renewal of the license, but not less than twenty-five dollars (\$25) nor more than one hundred fifty dollars (\$150). A delinquency, penalty, or late fee shall not be assessed until 30 days have elapsed from the date that the licensing agency mailed a notice of renewal to the licensee at the licensee's last known address of record. The notice shall specify the date for timely renewal, and that failure to renew in a timely fashion shall result in the assessment of a delinquency, penalty, or late fee. In the event a reinstatement or like fee is charged for the reinstatement of a license, the reinstatement fee shall be 150 percent of the renewal fee for such license in effect on the date of the reinstatement of the license, but not more than twenty-five dollars (\$25) in excess of the renewal fee, except that in the event that such a fee is fixed by statute at less than 150 percent of the renewal fee and less than the renewal fee plus twenty-five dollars (\$25), the fee so fixed shall be charged.

164. Form and Content of Licenses

The form and content of any license, certificate, permit, or similar indicia of authority issued by any agency in the department, including any document evidencing renewal of a license, certificate, permit, or similar indicia of authority, shall be determined by the director after consultation with and consideration of the views of the agency concerned.

165. Legislation; Fiscal Impact Analysis

Notwithstanding any other provision of law, no board, bureau, committee, commission, or program in the Department of Consumer Affairs shall submit to the Legislature any fiscal impact analysis relating to legislation pending before the Legislature until the analysis has been submitted to the Director of Consumer Affairs, or his or her designee, for review and comment. The boards, bureaus, committees, commissions, and programs shall include the comments of the director when submitting any fiscal impact analysis to the Legislature. This section shall not be construed to prohibit boards, bureaus, committees, commissions, and programs from responding to direct requests for fiscal data from Members of the

Legislature or their staffs. In those instances it shall be the responsibility of boards, bureaus, committees, commissions, and programs to also transmit that information to the director, or his or her designee, within five working days.

166. Mandatory Continuing Education Guidelines

The director shall, by regulation, develop guidelines to prescribe components for mandatory continuing education programs administered by any board within the department.

(a) The guidelines shall be developed to ensure that mandatory continuing education is used as a means to create a more competent licensing population, thereby enhancing public protection. The guidelines shall require mandatory continuing education programs to address, at least, the following:

- (1) Course validity.
- (2) Occupational relevancy.
- (3) Effective presentation.
- (4) Actual attendance.
- (5) Material assimilation.
- (6) Potential for application.

(b) The director shall consider educational principles, and the guidelines shall prescribe mandatory continuing education program formats to include, but not be limited to, the following:

- (1) The specified audience.
- (2) Identification of what is to be learned.
- (3) Clear goals and objectives.
- (4) Relevant learning methods (participatory, hands-on, or clinical setting).
- (5) Evaluation, focused on the learner and the assessment of the intended learning outcomes (goals and objectives).

(c) Any board within the department that, after January 1, 1993, proposes a mandatory continuing education program for its licensees shall submit the proposed program to the director for review to assure that the program contains all the elements set forth in this section and complies with the guidelines developed by the director.

(d) Any board administering a mandatory continuing education program that proposes to amend its current program shall do so in a manner consistent with this section.

(e) Any board currently administering a mandatory continuing education program shall review the components and requirements of the program to determine the extent to which they are consistent with the guidelines developed under this section. The board shall submit a report of their findings to the director. The report shall identify the similarities and differences of its mandatory continuing education program. The report shall include any board-specific needs to explain the variation from the director's guidelines.

(f) Any board administering a mandatory continuing education program, when accepting hours for credit which are obtained out of state, shall ensure that the course for which credit is given is administered in accordance with the guidelines addressed in subdivision (a).

(g) Nothing in this section or in the guidelines adopted by the director shall be construed to repeal any requirements for continuing education programs set forth in any other provision of this code.

BUSINESS AND PROFESSIONS CODE

CHAPTER 3

FUNDS OF THE DEPARTMENT

201. Pro Rata Charge for Administrative Expenses

(a) (1) A charge for the estimated administrative expenses of the department, not to exceed the available balance in any appropriation for any one fiscal year, may be levied in advance on a pro rata share basis against any of the boards, bureaus, commissions, divisions, and agencies, at the discretion of the director and with the approval of the Department of Finance.

(2) The department shall submit a report of the accounting of the pro rata calculation of administrative expenses to the appropriate policy committees of the Legislature on or before July 1, 2015, and on or before July 1 of each subsequent year.

(b) The department shall conduct a one-time study of its current system for prorating administrative expenses to determine if that system is the most productive, efficient, and cost-effective manner for the department and the agencies comprising the department. The study shall include consideration of whether some of the administrative services offered by the department should be outsourced or charged on an as-needed basis and whether the agencies should be permitted to elect not to receive and be charged for certain administrative services. The department shall include the findings in its report pursuant to paragraph (2) of subdivision (a) that it is required to submit on or before July 1, 2015.

202. Claims, Funds Transfers

(a) Upon proper presentation of claims by the department to the State Controller, the State Controller shall draw his or her warrant against any of the funds of any one of the boards to cover its share of the estimated administrative expenses of the department. The fund of one board shall not be used to pay the expenses of any other board.

(b) Nothing in this section or in Section 401 shall prohibit the transfer of funds for a release time bank of any board, commission, or bureau of the department pursuant to a memorandum of understanding on the same terms and conditions applicable to other state agencies.

202.5. Legal Services Charges from the Department of Justice

Prior to payment to the Department of Justice of any charges for legal services rendered to any board within the department, the Department of Justice shall submit to the board an itemized statement of the services and charges. The itemized statement shall include detailed information regarding the services performed and the amount of time billed for each of those services.

205. Special Funds

(a) There is in the State Treasury the Professions and Vocations Fund. The fund shall consist of the following special funds:

- (1) Accountancy Fund.
- (2) California Architects Board Fund.
- (3) Athletic Commission Fund.
- (4) Barbering and Cosmetology Contingent Fund.
- (5) Cemetery Fund.
- (6) Contractors' License Fund.
- (7) State Dentistry Fund.
- (8) State Funeral Directors and Embalmers Fund.
- (9) Guide Dogs for the Blind Fund.
- (10) Home Furnishings and Thermal Insulation Fund.
- (11) California Architects Board-Landscape Architects Fund.
- (12) Contingent Fund of the Medical Board of California.
- (13) Optometry Fund.
- (14) Pharmacy Board Contingent Fund.
- (15) Physical Therapy Fund.
- (16) Private Investigator Fund.
- (17) Professional Engineer's and Land Surveyor's Fund.
- (18) Consumer Affairs Fund.
- (19) Behavioral Sciences Fund.
- (20) Licensed Midwifery Fund.
- (21) Court Reporters' Fund.
- (22) Veterinary Medical Board Contingent Fund.
- (23) Vocational Nurses Account of the Vocational Nursing and Psychiatric Technicians Fund.
- (24) Electronic and Appliance Repair Fund.
- (25) Geology and Geophysics Account of the Professional Engineer's and Land Surveyor's Fund.
- (26) Dispensing Opticians Fund.
- (27) Acupuncture Fund.
- (28) Physician Assistant Fund.
- (29) Board of Podiatric Medicine Fund.
- (30) Psychology Fund.
- (31) Respiratory Care Fund.
- (32) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.
- (33) Board of Registered Nursing Fund.
- (34) Psychiatric Technician Examiners Account of the Vocational Nursing and Psychiatric Technicians Fund.
- (35) Animal Health Technician Examining Committee Fund.
- (36) State Dental Hygiene Fund.
- (37) State Dental Assistant Fund.

(b) For accounting and recordkeeping purposes, the Professions and Vocations Fund shall be deemed to be a single special fund, and each of the several special funds therein shall constitute and be deemed to be a separate account in the Professions and Vocations Fund. Each account or fund shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

206. Dishonored Checks

Notwithstanding any other provision of law, any person tendering a check for payment of a fee, fine, or penalty that was subsequently dishonored, shall not be granted a license, or other authority that they were seeking, until the applicant pays the amount outstanding from the dishonored payment together with the applicable fee, including any delinquency fee. The board may require the person whose check was returned unpaid to make payment of all fees by cashier's check or money order.

207. Appropriation of Funds

(a) Notwithstanding any other provision of law, the money in any fund described in Section 205 that is attributable to administrative fines, civil penalties, and criminal penalties imposed by a regulating entity, or cost recovery by a regulating entity from enforcement actions and case settlements, shall not be continuously appropriated. The money in each fund that is not continuously appropriated shall be available for expenditure as provided in this code only upon appropriation by the Legislature.

(b) Notwithstanding any other provision of law, the annual Budget Act may appropriate, in a single budget item for each individual fund described in paragraphs (1) to (40), inclusive, of subdivision (a) of Section 205, the entire amount available for expenditure in the budget year for that fund. That appropriation may include funds that are continuously appropriated and funds that are not continuously appropriated.

211. Assessment of Department's Operations by Third-Party Consultant

If the department hires a third-party consultant to assess the department's operations, the department shall, promptly upon receipt of the consultant's final report on that assessment, submit that report to the appropriate policy committees of the Legislature after omitting any information that is not subject to disclosure under the California Public Records Act (Chapter 3.5 commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

BUSINESS AND PROFESSIONS CODE

CHAPTER 4 CONSUMER AFFAIRS

300. Consumer Affairs Act

This chapter may be cited as the Consumer Affairs Act.

301. Legislative Intent

It is the intent of the Legislature and the purpose of this chapter to promote and protect the interests of the people as consumers. The Legislature finds that vigorous representation and protection of consumer interests are essential to the fair and efficient functioning of a free enterprise market economy. The Legislature declares that government advances the interests of consumers by facilitating the proper functioning of the free enterprise market economy through:

- (a) Educating and informing the consumer to insure rational consumer choice in the marketplace;
- (b) Protecting the consumer from the sale of goods and services through the use of deceptive methods, acts, or practices which are inimical to the general welfare of consumers;
- (c) Fostering competition; and
- (d) Promoting effective representation of consumers' interests in all branches and levels of government.

310. Powers and Duties of the Director

The director shall have the following powers and it shall be his duty to:

- (a) Recommend and propose the enactment of such legislation as necessary to protect and promote the interests of consumers.
- (b) Represent the consumer's interests before federal and state legislative hearings and executive commissions.
- (c) Assist, advise, and cooperate with federal, state, and local agencies and officials to protect and promote the interests of consumers.
- (d) Study, investigate, research, and analyze matters affecting the interests of consumers.
- (e) Hold public hearings, subpoena witnesses, take testimony, compel the production of books, papers, documents, and other evidence, and call upon other state agencies for information.

- (f) Propose and assist in the creation and development of consumer education programs.
- (g) Promote ethical standards of conduct for business and consumers and undertake activities to encourage public responsibility in the production, promotion, sale and lease of consumer goods and services.
- (h) Advise the Governor and Legislature on all matters affecting the interests of consumers.
- (i) Exercise and perform such other functions, powers and duties as may be deemed appropriate to protect and promote the interests of consumers as directed by the Governor or the Legislature.
- (j) Maintain contact and liaison with consumer groups in California and nationally.

312. Annual Report

- (a) The director shall submit to the Governor and the Legislature on or before January 1, 2003, and annually thereafter, a report of programmatic and statistical information regarding the activities of the department and its constituent entities for the previous fiscal year. The report shall include information concerning the director's activities pursuant to Section 326, including the number and general patterns of consumer complaints and the action taken on those complaints.
- (b) The report shall include information relative to the performance of each constituent entity, including, but not limited to, length of time for a constituent entity to reach each of the following milestones in the enforcement process:
 - (1) Average number of days from when a constituent entity receives a complaint until the constituent entity assigns an investigator to the complaint.
 - (2) Average number of days from a constituent entity opening an investigation conducted by the constituent entity staff or the Division of Investigation to closing the investigation regardless of outcome.
 - (3) Average number of days from a constituent entity closing an investigation to imposing formal discipline.
- (c) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

313.1. Rules and Regulations; Approval of Director

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

(b) The director shall be formally notified of and shall be provided a full opportunity to review, in accordance with the requirements of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code, and this section, all of the following:

- (1) All notices of proposed action, any modifications and supplements thereto, and the text of proposed regulations.
- (2) Any notices of sufficiently related changes to regulations previously noticed to the public, and the text of proposed regulations showing modifications to the text.
- (3) Final rulemaking records.

(c) The submission of all notices and final rulemaking records to the director and the completion of the director's review, as authorized by this section, shall be a precondition to the filing of any rule or regulation with the Office of Administrative Law. The Office of Administrative Law shall have no jurisdiction to review a rule or regulation subject to this section until after the completion of the director's review and only then if the director has not disapproved it. The filing of any document with the Office of Administrative Law shall be accompanied by a certification that the board, commission, or committee has complied with the requirements of this section.

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

(e) Final rulemaking records shall be filed with the director within the one-year notice period specified in Section 11346.4 of the Government Code. If necessary for compliance with this section, the one-year notice period may be extended, as specified by this subdivision.

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

(2) If the director approves the final rulemaking record or declines to take action on it within 30 days, the board, commission, or committee shall have five days from the receipt of the record from the director within which to file it with the Office of Administrative Law.

(3) If the director disapproves a rule or regulation, it shall have no force or effect unless, within 60 days of the notice of disapproval,

(A) the disapproval is overridden by a unanimous vote of the members of the board, commission, or committee, and

(B) the board, commission, or committee files the final rulemaking record with the Office of Administrative Law in compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) Nothing in this section shall be construed to prohibit the director from affirmatively approving a proposed rule, regulation, or fee change at any time within the 30-day period

after it has been submitted to him or her, in which event it shall become effective upon compliance with this section and the procedures required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

313.2. Americans With Disabilities Act

The director shall adopt regulations to implement, interpret, and make specific the provisions of the Americans with Disabilities Act (P.L. 101-336), as they relate to the examination process for professional licensing and certification programs under the purview of the department.

320. Intervention by Director

Whenever there is pending before any state commission, regulatory agency, department, or other state agency, or any state or federal court or agency, any matter or proceeding which the director finds may affect substantially the interests of consumers within California, the director, or the Attorney General, may intervene in such matter or proceeding in any appropriate manner to represent the interests of consumers. The director, or any officer or employee designated by the director for that purpose, or the Attorney General, may thereafter present to such agency, court, or department, in conformity with the rules of practice and procedure thereof, such evidence and argument as he shall determine to be necessary, for the effective protection of the interests of consumers.

321. Commencement of Legal Proceedings

Whenever it appears to the director that the interests of the consumers of this state are being damaged, or may be damaged, by any person who engaged in, or intends to engage in, any acts or practices in violation of any law of this state, or any federal law, the director or any officer or employee designated by the director, or the Attorney General, may commence legal proceedings in the appropriate forum to enjoin such acts or practices and may seek other appropriate relief on behalf of such consumers.

325. Reception of Complaints

Receptions of Complaints It shall be the duty of the director to receive complaints from consumers concerning (a) unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in the conduct of any trade or commerce; (b) the production, distribution, sale, and lease of any goods and services undertaken by any person which may endanger the public health, safety, or welfare; (c) violations of provisions of this code relating to businesses and professions licensed by any agency of the department, and regulations promulgated pursuant thereto; and (d) other matters consistent with the purposes of this chapter, whenever appropriate.

326. Notification of Complaint: Referral

(a) Upon receipt of any complaint pursuant to Section 325, the director may notify the person against whom the complaint is made of the nature of the complaint and may request appropriate relief for the consumer.

(b) The director shall also transmit any valid complaint to the local, state or federal agency whose authority provides the most effective means to secure the relief. The director shall, if appropriate, advise the consumer of the action taken on the complaint and of any other means which may be available to the consumer to secure relief.

(c) If the director receives a complaint or receives information from any source indicating a probable violation of any law, rule, or order of any regulatory agency of the state, or if a pattern of complaints from consumers develops, the director shall transmit any complaint he or she considers to be valid to any appropriate law enforcement or regulatory agency and any evidence or information he or she may have concerning the probable violation or pattern of complaints or request the Attorney General to undertake appropriate legal action. It shall be the continuing duty of the director to discern patterns of complaints and to ascertain the nature and extent of action taken with respect to the probable violations or pattern of complaints.

BUSINESS AND PROFESSIONS CODE

CHAPTER 6 PUBLIC MEMBERS

450. Qualifications - Prohibited Relationships

In addition to the qualifications provided in the respective chapters of this code, a public member or a lay member of any board shall not be, nor shall he have been within the period of five years immediately preceding his appointment, any of the following:

(a) An employer, or an officer, director, or substantially full-time representative of an employer or group of employers, of any licentiate of such board, except that this shall not preclude the appointment of a person which maintains infrequent employer status with such licentiate, or maintains a client, patient, or customer relationship with any such licentiate which does not constitute more than 2 percent of the practice or business of the licentiate.

(b) A person maintaining a contractual relationship with a licentiate of such board, which would constitute more than 2 percent of the practice or business of any such licentiate, or an officer, director, or substantially full-time representative of such person or group of persons.

(c) An employee of any licentiate of such board, or a representative of such employee, except that this shall not preclude the appointment of a person who maintains an infrequent employee relationship or a person rendering professional or related services to a licentiate if such employment or service does not constitute more than 2 percent of the employment or practice of the member of the board.

450.2. Conflict of Interest

In order to avoid a potential for a conflict of interest, a public member of a board shall not:

- (a) Be a current or past licensee of that board.
- (b) Be a close family member of a licensee of that board.

450.3. Conflicting Financial Interests

No public member shall either at the time of his appointment or during his tenure in office have any financial interest in any organization subject to regulation by the board, commission or committee of which he is a member.

450.5. Conflicting Pursuits

A public member, or a lay member, at any time within five years immediately preceding his or her appointment, shall not have been engaged in pursuits which lie within the field of the industry or profession, or have provided representation to the industry or profession, regulated by the board of which he or she is a member, nor shall he or she engage in those pursuits or provide that representation during his or her term of office.

450.6. Age Requirement

Notwithstanding any other section of law, a public member may be appointed without regard to age so long as the public member has reached the age of majority prior to appointment.

451. Delegated Authority: Restrictions

If any board shall as a part of its functions delegate any duty or responsibility to be performed by a single member of such board, such delegation shall not be made solely to any public member or any lay member of the board in any of the following instances:

(a) The actual preparation of, the administration of, and the grading of, examinations.

(b) The inspection or investigation of licentiates, the manner or method of practice or doing business, or their place of practice or business. Nothing in this section shall be construed as precluding a public member or a lay member from participating in the formation of policy relating to the scope of the activities set forth in subdivisions (a) and (b) or in the approval, disapproval or modification of the action of its individual members, nor preclude such member from participating as a member of a subcommittee consisting of more than one member of the board in the performance of any duty.

452. "Board" Defined

"Board," as used in this chapter, includes a board, advisory board, commission, examining committee, committee or other similarly constituted body exercising powers under this code.

453. Training for New Board Members

Every newly appointed board member shall, within one year of assuming office, complete a training and orientation program offered by the department regarding, among other things, his or her functions, responsibilities, and obligations as a member of a board. The department shall adopt regulations necessary to establish this training and orientation program and its content.

BUSINESS AND PROFESSIONS CODE

CHAPTER 7

LICENSEE

460. Local Restriction of Licensees Prohibited

(a) No city or county shall prohibit a person or group of persons, authorized by one of the agencies in the Department of Consumer Affairs by a license, certificate, or other such means to engage in a particular business, from engaging in that business, occupation, or profession or any portion thereof.

(b) No city, county, or city and county shall prohibit a healing arts professional licensed with the state under Division 2 (commencing with Section 500) from engaging in any act or performing any procedure that falls within the professionally recognized scope of practice of that licensee.

(1) This subdivision shall not be construed to prohibit the enforcement of a local ordinance in effect prior to January 1, 2010, related to any act or procedure that falls within the professionally recognized scope of practice of a healing arts professional licensed under Division 2 (commencing with Section 500).

(2) This subdivision shall not be construed to prevent a city, county, or city and county from adopting or enforcing any local ordinance governing zoning, business licensing, or reasonable health and safety requirements for establishments or businesses of a healing arts professional licensed under Division 2 (commencing with Section 500).

(c) Nothing in this section shall prohibit any city, county, or city and county from levying a business license tax solely for revenue purposes, nor any city or county from levying a license tax solely for the purpose of covering the cost of regulation.

461. Records of Arrest

No public agency, state or local, shall, on an initial application form for any license, certificate or registration, ask for or require the applicant to reveal a record of arrest that did not result in a conviction or a plea of nolo contendere. A violation of this section is a misdemeanor. This section shall apply in the case of any license, certificate or registration provided for by any law of this state or local government, including, but not limited to, this code, the Corporations Code, the Education Code, and the Insurance Code.

462. Inactive License

(a) Any of the boards, bureaus, commissions, or programs within the department may establish, by regulation, a system for an inactive category of licensure for persons who are not actively engaged in the practice of their profession or vocation.

(b) The regulation shall contain the following provisions:

(1) The holder of an inactive license issued pursuant to this section shall not engage in any activity for which a license is required.

(2) An inactive license issued pursuant to this section shall be renewed during the same time period in which an active license is renewed. The holder of an inactive license need not comply with any continuing education requirement for renewal of an active license.

(3) 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.

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

(A) Pay the renewal fee.

(B) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.

(c) This section shall not apply to any healing arts board as specified in Section 701.

BUSINESS AND PROFESSIONS CODE

DIVISION 1.5 – DENIAL, SUSPENSION, REVOCATION OF LICENSES

CHAPTER 1 – GENERAL PROVISIONS

475. Applicability

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

- (1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.
- (2) Conviction of a crime.
- (3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.
- (4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

476. Exceptions

(a) Except as provided in subdivision (b), nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

(b) Section 494.5 shall apply to the licensure of persons authorized to practice law pursuant to Chapter 4 (commencing with Section 6000) of Division 3, and the licensure or registration of persons pursuant to Chapter 5 (commencing with Section 19800) of Division 8 or pursuant to Division 9 (commencing with Section 23000).

477. "Board" and License" Defined

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

478. “Application” and “Material” Defined

(a) As used in this division, "application" includes the original documents or writings filed and any other supporting documents or writings including supporting documents provided or filed contemporaneously, or later, in support of the application whether provided or filed by the applicant or by any other person in support of the application.

(b) As used in this division, "material" includes a statement or omission substantially related to the qualifications, functions, or duties of the business or profession.

BUSINESS AND PROFESSIONS CODE

DIVISION 1.5

CHAPTER 2 – DENIAL OF LICENSE

480. Grounds for Denial

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

480.5. Denial of Licensure Based on Expunged Convictions

(a) An individual who has satisfied any of the requirements needed to obtain a license regulated under this division while incarcerated, who applies for that license upon release from incarceration, and who is otherwise eligible for the license shall not be subject to a delay in processing his or her application or a denial of the license solely on the basis that some or all of the licensure requirements were completed while the individual was incarcerated.

(b) Nothing in this section shall be construed to apply to a petition for reinstatement of a license or to limit the ability of a board to deny a license pursuant to Section 480.

(c) This section shall not apply to the licensure of individuals under the initiative act referred to in Chapter 2 (commencing with Section 1000) of Division 2.

481. Criteria for Related Crimes Required

Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

482. Criteria for Rehabilitation Required

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

484. Attestations of Good Moral Character Not Required

No person applying for licensure under this code shall be required to submit to any licensing board any attestation by other persons to his good moral character.

485. Procedure for Board Upon Denial

Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

(a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived. Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

486. Reapplication After Denial

Where the board has denied an application for a license under this chapter or Section 496, it shall, in its decision, or in its notice under subdivision (b) of Section 485, inform the applicant of the following:

(a) The earliest date on which the applicant may reapply for a license which shall be one year from the effective date of the decision, or service of the notice under subdivision (b) of Section 485, unless the board prescribes an earlier date or a later date is prescribed by another statute.

(b) That all competent evidence of rehabilitation presented will be considered upon a reapplication. Along with the decision, or the notice under subdivision (b) of Section 485, the board shall serve a copy of the criteria relating to rehabilitation formulated under Section 482.

487. Hearings

If a hearing is requested by the applicant, the board shall conduct such hearing within 90 days from the date the hearing is requested unless the applicant shall request or agree in writing to a postponement or continuance of the hearing. Notwithstanding the above, the Office of Administrative Hearings may order, or on a showing of good cause, grant a request for, up to 45 additional days within which to conduct a hearing, except in cases involving alleged examination or licensing fraud, in which cases the period may be up to 180 days. In no case shall more than two such orders be made or requests be granted.

488. Action Following a Hearing

Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(a) Grant the license effective upon completion of all licensing requirements by the applicant.

(b) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(c) Deny the license.

(d) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

489. Denial of Licensure

Any agency in the department which is authorized by law to deny an application for a license upon the grounds specified in Section 480 or 496, may without a hearing deny an application upon any of those grounds, if within one year previously, and after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that agency has denied an application from the same applicant upon the same ground.

BUSINESS AND PROFESSIONS CODE

DIVISION 1.5

CHAPTER 3 – SUSPENSION AND REVOCATION OF LICENSES

490. Conviction of a Crime – Substantial Relationship Required

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of this section has been made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a significant number of statutes and regulations in question, resulting in potential harm to the consumers of California from licensees who have been convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an independent basis for a board to impose discipline upon a licensee, and that the amendments to this section made by Chapter 33 of the Statutes of 2008 do not constitute a change to, but rather are declaratory of, existing law.

490.5. Suspension of a License for Noncompliance with Child Support Order

A board may suspend a license pursuant to Section 17520 of the Family Code if a licensee is not in compliance with a child support order or judgment.

491. Information to Ex-Licensee

Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall:

(a) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensee.

(b) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensee.

493. Conviction of a Crime – Conclusive Evidence

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question. As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

494. Interim Suspension of Restriction Order

(a) A board or an administrative law judge sitting alone, as provided in subdivision (h), may, upon petition, issue an interim order suspending any licentiate or imposing license restrictions, including, but not limited to, mandatory biological fluid testing, supervision, or remedial training. The petition shall include affidavits that demonstrate, to the satisfaction of the board, both of the following:

- (1) The licentiate has engaged in acts or omissions constituting a violation of this code or has been convicted of a crime substantially related to the licensed activity.
- (2) Permitting the licentiate to continue to engage in the licensed activity, or permitting the licentiate to continue in the licensed activity without restrictions, would endanger the public health, safety, or welfare.

(b) No interim order provided for in this section shall be issued without notice to the licentiate unless it appears from the petition and supporting documents that serious injury would result to the public before the matter could be heard on notice.

(c) Except as provided in subdivision (b), the licentiate shall be given at least 15 days' notice of the hearing on the petition for an interim order. The notice shall include documents submitted to the board in support of the petition. If the order was initially issued without notice as provided in subdivision (b), the licentiate shall be entitled to a hearing on the petition within 20 days of the issuance of the interim order without notice. The licentiate shall be given notice of the hearing within two days after issuance of the initial interim order, and shall receive all documents in support of the petition. The failure of the board to provide a hearing within 20 days following the issuance of the interim order without notice, unless the licentiate waives his or her right to the hearing, shall result in the dissolution of the interim order by operation of law.

(d) At the hearing on the petition for an interim order, the licentiate may:

(1) Be represented by counsel.

(2) Have a record made of the proceedings, copies of which shall be available to the licentiate upon payment of costs computed in accordance with the provisions for transcript costs for judicial review contained in Section 11523 of the Government Code.

(3) Present affidavits and other documentary evidence.

(4) Present oral argument.

(e) The board, or an administrative law judge sitting alone as provided in subdivision (h), shall issue a decision on the petition for interim order within five business days following submission of the matter. The standard of proof required to obtain an interim order pursuant to this section shall be a preponderance of the evidence standard. If the interim order was previously issued without notice, the board shall determine whether the order shall remain in effect, be dissolved, or modified.

(f) The board shall file an accusation within 15 days of the issuance of an interim order. In the case of an interim order issued without notice, the time shall run from the date of the order issued after the noticed hearing. If the licentiate files a Notice of Defense, the hearing shall be held within 30 days of the agency's receipt of the Notice of Defense. A decision shall be rendered on the accusation no later than 30 days after submission of the matter. Failure to comply with any of the requirements in this subdivision shall dissolve the interim order by operation of law.

(g) Interim orders shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and shall be heard only in the superior court in and for the Counties of Sacramento, San Francisco, Los Angeles, or San Diego. The review of an interim order shall be limited to a determination of whether the board abused its discretion in the issuance of the interim order. Abuse of discretion is established if the respondent board has not proceeded in the manner required by law, or if the court determines that the interim order is not supported by substantial evidence in light of the whole record.

(h) The board may, in its sole discretion, delegate the hearing on any petition for an interim order to an administrative law judge in the Office of Administrative Hearings. If the board hears the noticed petition itself, an administrative law judge shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the board on matters of law. The board shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the administrative law judge. When the petition has been delegated to an administrative law judge, he or she shall sit alone and exercise all of the powers of the board relating to the conduct of the hearing. A decision issued by an administrative law judge sitting alone shall be final when it is filed with the board. If the administrative law judge issues an interim order without notice, he or she shall preside at the noticed hearing, unless unavailable, in which case another administrative law judge may hear the matter. The decision of the administrative law judge sitting alone on the petition for an interim order is final, subject only to judicial review in accordance with subdivision (g).

(i) Failure to comply with an interim order issued pursuant to subdivision (a) or (b) shall constitute a separate cause for disciplinary action against any licentiate, and may be heard at, and as a part of, the noticed hearing provided for in subdivision (f). Allegations of noncompliance with the interim order may be filed at any time prior to the rendering of a decision on the accusation. Violation of the interim order is established upon proof that the licentiate was on notice of the interim order and its terms, and that the order was in effect at the time of the violation. The finding of a violation of an interim order made at the hearing on the accusation shall be reviewed as a part of any review of a final decision of the agency. If the interim order issued by the agency provides for anything less than a complete suspension of the licentiate from his or her business or profession, and the licentiate violates the interim order prior to the hearing on the accusation provided for in subdivision (f), the agency may, upon notice to the licentiate and proof of violation, modify or expand the interim order.

(j) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section. A certified record of the conviction shall be conclusive evidence of the fact that the conviction occurred. A board may take action under this section notwithstanding the fact that an appeal of the conviction may be taken.

(k) The interim orders provided for by this section shall be in addition to, and not a limitation on, the authority to seek injunctive relief provided in any other provision of law.

(l) In the case of a board, a petition for an interim order may be filed by the executive officer. In the case of a bureau or program, a petition may be filed by the chief or program administrator, as the case may be.

(m) "Board," as used in this section, shall include any agency described in Section 22, and any allied health agency within the jurisdiction of the Medical Board of California. Board shall also include the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. The provisions of this section shall not be applicable to the Medical Board of California, the Board of Podiatric Medicine, or the State Athletic Commission.

494.5. Agency Actions Regarding Certified List

(a) (1) Except as provided in paragraphs (2), (3), and (4), a state governmental licensing entity shall refuse to issue, reactivate, reinstate, or renew a license and shall suspend a license if a licensee's name is included on a certified list.

(2) The Department of Motor Vehicles shall suspend a license if a licensee's name is included on a certified list. Any reference in this section to the issuance, reactivation, reinstatement, renewal, or denial of a license shall not apply to the Department of Motor Vehicles.

(3) The State Bar of California may recommend to refuse to issue, reactivate, reinstate, or renew a license and may recommend to suspend a license if a licensee's name is included on a certified list. The word "may" shall be substituted for the word "shall" relating to the

issuance of a temporary license, refusal to issue, reactivate, reinstate, renew, or suspend a license in this section for licenses under the jurisdiction of the California Supreme Court.

(4) The Alcoholic Beverage Control Board may refuse to issue, reactivate, reinstate, or renew a license, and may suspend a license, if a licensee's name is included on a certified list.

(b) For purposes of this section:

(1) "Certified list" means either the list provided by the State Board of Equalization or the list provided by the Franchise Tax Board of persons whose names appear on the lists of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code, as applicable.

(2) "License" includes a certificate, registration, or any other authorization to engage in a profession or occupation issued by a state governmental licensing entity.

"License" includes a driver's license issued pursuant to Chapter 1 (commencing with Section 12500) of Division 6 of the Vehicle Code. "License" excludes a vehicle registration issued pursuant to Division 3 (commencing with Section 4000) of the Vehicle Code.

(3) "Licensee" means an individual authorized by a license to drive a motor vehicle or authorized by a license, certificate, registration, or other authorization to engage in a profession or occupation issued by a state governmental licensing entity.

(4) "State governmental licensing entity" means any entity listed in Section 101, 1000, or 19420, the office of the Attorney General, the Department of Insurance, the Department of Motor Vehicles, the State Bar of California, the Department of Real Estate, and any other state agency, board, or commission that issues a license, certificate, or registration authorizing an individual to engage in a profession or occupation, including any certificate, business or occupational license, or permit or license issued by the Department of Motor Vehicles or the Department of the California Highway Patrol.

"State governmental licensing entity" shall not include the Contractors' State License Board.

(c) The State Board of Equalization and the Franchise Tax Board shall each submit its respective certified list to every state governmental licensing entity. The certified lists shall include the name, social security number or taxpayer identification number, and the last known address of the persons identified on the certified lists.

(d) Notwithstanding any other law, each state governmental licensing entity shall collect the social security number or the federal taxpayer identification number from all applicants for the purposes of matching the names of the certified lists provided by the State Board of Equalization and the Franchise Tax Board to applicants and licensees.

(e) (1) Each state governmental licensing entity shall determine whether an applicant or licensee is on the most recent certified list provided by the State Board of Equalization and the Franchise Tax Board.

(2) If an applicant or licensee is on either of the certified lists, the state governmental licensing entity shall immediately provide a preliminary notice to the applicant or licensee of the entity's intent to suspend or withhold issuance or renewal of the license. The preliminary notice shall be delivered personally or by mail to the applicant's or licensee's last known mailing address on file with the state governmental licensing entity within 30 days of receipt of the certified list. Service by mail shall be completed in accordance with Section 1013 of the Code of Civil Procedure.

(A) The state governmental licensing entity shall issue a temporary license valid for a period of 90 days to any applicant whose name is on a certified list if the applicant is otherwise eligible for a license.

(B) The 90-day time period for a temporary license shall not be extended. Only one temporary license shall be issued during a regular license term and the term of the temporary license shall coincide with the first 90 days of the regular license term. A license for the full term or the remainder of the license term may be issued or renewed only upon compliance with this section.

(C) In the event that a license is suspended or an 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 state governmental licensing entity.

(f) (1) A state governmental licensing entity shall refuse to issue or shall suspend a license pursuant to this section no sooner than 90 days and no later than 120 days of the mailing of the preliminary notice described in paragraph (2) of subdivision (e), unless the state governmental licensing entity has received a release pursuant to subdivision (h). The procedures in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial or suspension of, or refusal to renew, a license or the issuance of a temporary license pursuant to this section.

(2) Notwithstanding any other law, if a board, bureau, or commission listed in Section 101, other than the Contractors' State License Board, fails to take action in accordance with this section, the Department of Consumer Affairs shall issue a temporary license or suspend or refuse to issue, reactivate, reinstate, or renew a license, as appropriate.

(g) Notices shall be developed by each state governmental licensing entity. For an applicant or licensee on the State Board of Equalization's certified list, the notice shall include the address and telephone number of the State Board of Equalization, and shall emphasize the necessity of obtaining a release from the State Board of Equalization as a condition for the issuance, renewal, or continued valid status of a license or licenses. For an applicant or licensee on the Franchise Tax Board's certified list, the notice shall include the address and telephone number of the Franchise Tax Board, and shall emphasize the necessity of obtaining a release from the Franchise Tax Board as a condition for the issuance, renewal, or continued valid status of a license or licenses.

(1) The notice shall inform the applicant that the state governmental licensing entity shall issue a temporary license, as provided in subparagraph (A) of paragraph (2) of subdivision (e), for 90 calendar days if the applicant is otherwise eligible and that

upon expiration of that time period, the license will be denied unless the state governmental licensing entity has received a release from the State Board of Equalization or the Franchise Tax Board, whichever is applicable.

(2) The notice shall inform the licensee that any license suspended under this section will remain suspended until the state governmental licensing entity receives a release along with applications and fees, if applicable, to reinstate the license.

(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 moneys paid by the applicant or licensee shall not be refunded by the state governmental licensing entity. The state governmental licensing entity shall also develop a form that the applicant or licensee shall use to request a release by the State Board of Equalization or the Franchise Tax Board. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(h) If the applicant or licensee wishes to challenge the submission of his or her name on a certified list, the applicant or licensee shall make a timely written request for release to the State Board of Equalization or the Franchise Tax Board, whichever is applicable. The State Board of Equalization or the Franchise Tax Board shall immediately send a release to the appropriate state governmental licensing entity and the applicant or licensee, if any of the following conditions are met:

(1) The applicant or licensee has complied with the tax obligation, either by payment of the unpaid taxes or entry into an installment payment agreement, as described in Section 6832 or 19008 of the Revenue and Taxation Code, to satisfy the unpaid taxes.

(2) The applicant or licensee has submitted a request for release not later than 45 days after the applicant's or licensee's receipt of a preliminary notice described in paragraph (2) of subdivision (e), but the State Board of Equalization or the Franchise Tax Board, whichever is applicable, will be unable to complete the release review and send notice of its findings to the applicant or licensee and state governmental licensing entity within 45 days after the State Board of Equalization's or the Franchise Tax Board's receipt of the applicant's or licensee's request for release. Whenever a release is granted under this paragraph, and, notwithstanding that release, the applicable license or licenses have been suspended erroneously, the state governmental licensing entity shall reinstate the applicable licenses with retroactive effect back to the date of the erroneous suspension and that suspension shall not be reflected on any license record.

(3) The applicant or licensee is unable to pay the outstanding tax obligation due to a current financial hardship. "Financial hardship" means financial hardship as determined by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, where the applicant or licensee is unable to pay any part of the outstanding liability and the applicant or licensee is unable to qualify for an installment payment arrangement as provided for by Section 6832 or Section 19008 of the Revenue and Taxation Code. In order to establish the existence of a financial hardship, the applicant or licensee shall submit any information, including information related to reasonable business and personal expenses, requested by the

State Board of Equalization or the Franchise Tax Board, whichever is applicable, for purposes of making that determination.

(i) An applicant or licensee is required to act with diligence in responding to notices from the state governmental licensing entity and the State Board of Equalization or the Franchise Tax Board with the recognition that the temporary license will lapse or the license suspension will go into effect after 90 days and that the State Board of Equalization or the Franchise Tax Board must have time to act within that period. An applicant's or licensee's delay in acting, without good cause, which directly results in the inability of the State Board of Equalization or the Franchise Tax Board, whichever is applicable, to complete a review of the applicant's or licensee's request for release shall not constitute the diligence required under this section which would justify the issuance of a release. An applicant or licensee shall have the burden of establishing that he or she diligently responded to notices from the state governmental licensing entity or the State Board of Equalization or the Franchise Tax Board and that any delay was not without good cause.

(j) The State Board of Equalization or the Franchise Tax Board shall create release forms for use pursuant to this section. When the applicant or licensee has complied with the tax obligation by payment of the unpaid taxes, or entry into an installment payment agreement, or establishing the existence of a current financial hardship as defined in paragraph (3) of subdivision (h), the State Board of Equalization or the Franchise Tax Board, whichever is applicable, shall mail a release form to the applicant or licensee and provide a release to the appropriate state governmental licensing entity. Any state governmental licensing entity that has received a release from the State Board of Equalization and the Franchise Tax Board pursuant to this subdivision shall process the release within five business days of its receipt. If the State Board of Equalization or the Franchise Tax Board determines subsequent to the issuance of a release that the licensee has not complied with their installment payment agreement, the State Board of Equalization or the Franchise Tax Board, whichever is applicable, shall notify the state governmental licensing entity and the licensee in a format prescribed by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, that the licensee is not in compliance and the release shall be rescinded. The State Board of Equalization and the Franchise Tax Board may, when it is economically feasible for the state governmental licensing entity to develop an automated process for complying with this subdivision, notify the state governmental licensing entity in a manner prescribed by the State Board of Equalization or the Franchise Tax Board, whichever is applicable, that the licensee has not complied with the installment payment agreement. Upon receipt of this notice, the state governmental licensing entity shall immediately notify the licensee on a form prescribed by the state governmental licensing entity that the licensee's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The licensee shall be further notified that the license will remain suspended until a new release is issued in accordance with this subdivision.

(k) The State Board of Equalization and the Franchise Tax Board may enter into interagency agreements with the state governmental licensing entities necessary to implement this section.

(l) Notwithstanding any other law, a state governmental licensing entity, with the approval of the appropriate department director or governing body, may impose a fee on a licensee whose license has been suspended pursuant to this section. The fee shall not exceed the amount necessary for the state governmental licensing entity to cover its costs in carrying out the provisions of this section. Fees imposed pursuant to this section shall be deposited in the fund in which other fees imposed by the state governmental licensing entity are deposited and shall be available to that entity upon appropriation in the annual Budget Act.

(m) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section.

(n) Any state governmental licensing entity receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or who has been granted a temporary license under this section shall respond that the license was denied or suspended or the temporary license was issued only because the licensee appeared on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). Any state governmental licensing entity that discloses on its Internet Web site or other publication that the licensee has had a license denied or suspended under this section or has been granted a temporary license under this section shall prominently disclose, in bold and adjacent to the information regarding the status of the license, that the only reason the license was denied, suspended, or temporarily issued is because the licensee failed to pay taxes.

(o) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations 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).

The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(p) The State Board of Equalization, the Franchise Tax Board, and state governmental licensing entities, as appropriate, shall adopt regulations as necessary to implement this section.

(q) (1) Neither the state governmental licensing entity, nor any officer, employee, or agent, or former officer, employee, or agent of a state governmental licensing entity, may disclose or use any information obtained from the State Board of Equalization or the Franchise Tax Board, pursuant to this section, except to inform the public of the denial, refusal to renew, or suspension of a license or the issuance of a temporary license pursuant to this section. The release or other use of information received by a state governmental licensing entity

pursuant to this section, except as authorized by this section, is punishable as a misdemeanor. This subdivision may not be interpreted to prevent the State Bar of California from filing a request with the Supreme Court of California to suspend a member of the bar pursuant to this section.

(2) A suspension of, or refusal to renew, a license or issuance of a temporary license pursuant to this section does not constitute denial or discipline of a licensee for purposes of any reporting requirements to the National Practitioner Data Bank and shall not be reported to the National Practitioner Data Bank or the Healthcare Integrity and Protection Data Bank.

(3) Upon release from the certified list, the suspension or revocation of the applicant's or licensee's license shall be purged from the state governmental licensing entity's Internet Web site or other publication within three business days. This paragraph shall not apply to the State Bar of California.

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

(s) All rights to review afforded by this section to an applicant shall also be afforded to a licensee.

(t) Unless otherwise provided in this section, the policies, practices, and procedures of a state governmental licensing entity with respect to license suspensions under this section shall be the same as those applicable with respect to suspensions pursuant to Section 17520 of the Family Code.

(u) No provision of this section shall be interpreted to allow a court to review and prevent the collection of taxes prior to the payment of those taxes in violation of the California Constitution.

(v) This section shall apply to any licensee whose name appears on a list of the 500 largest tax delinquencies pursuant to Section 7063 or 19195 of the Revenue and Taxation Code on or after July 1, 2012.

BUSINESS AND PROFESSIONS CODE

DIVISION 1.5

CHAPTER 4 - PUBLIC REPROVALS

495. Procedure

Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproof, public reproof and suspension, or public reproof and 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, or, in the case of a licensee or certificate holder under the jurisdiction of the State Department of Health Services, in accordance with Section 100171 of the Health and Safety Code.

BUSINESS AND PROFESSIONS CODE

DIVISION 1.5

CHAPTER 5 – EXAMINATION SECURITY

496. Violation of Exam Security

A board may deny, suspend, revoke, or otherwise restrict a license on the ground that an applicant or licensee has violated Section 123 pertaining to subversion of licensing examinations.

498. Wrongful Acquisition of License

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

499. Wrongful Support of Another's Application

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee, in support of another person's application for license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the board regarding the application.

BUSINESS AND PROFESSIONS CODE

DIVISION 7 – GENERAL BUSINESS REGULATIONS PART 2 – PRESERVATION AND REGULATION OF COMPETITION CHAPTER 5 – ENFORCEMENT

17200. Unfair Competition

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.

17201. “Person” Defined

As used in this chapter, the term person shall mean and include natural persons, corporations, firms, partnerships, joint stock companies, associations and other organizations of persons.

17201.5. “Board” Defined; “Local Consumer Affairs Agency” Defined

As used in this chapter:

(a) "Board within the Department of Consumer Affairs" includes any commission, bureau, division, or other similarly constituted agency within the Department of Consumer Affairs.

(b) "Local consumer affairs agency" means and includes any city or county body which primarily provides consumer protection services.

17202. Authority to Grant Specific or Preventive Relief

Notwithstanding Section 3369 of the Civil Code, specific or preventive relief may be granted to enforce a penalty, forfeiture, or penal law in a case of unfair competition.

17203. Injunctions; Order or Judgments

Injunctive Relief--Court Orders

Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition, as defined in this chapter, or as may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of such unfair competition. Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of Section 17204 and complies with Section 382 of the Code of Civil Procedure, but these limitations do not apply to claims brought under this chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state.

17204. Actions for Injunctions

Actions for Injunctions by Attorney General, District Attorney, County Counsel, and City Attorneys

Actions for relief pursuant to this chapter shall be prosecuted exclusively in a court of competent jurisdiction by the Attorney General or a district attorney or by a county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or by a city attorney of a city having a population in excess of 750,000, or by a city attorney in a city and county or, with the consent of the district attorney, by a city prosecutor in a city having a full-time city prosecutor in the name of the people of the State of California upon their own complaint or upon the complaint of a board, officer, person, corporation, or association, or by a person who has suffered injury in fact and has lost money or property as a result of the unfair competition.

17205. Cumulative Remedies

Unless otherwise expressly provided, the remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of this state.

17206. Violations; Penalty; Actions for Recovery; Expenses

Civil Penalty for Violation of Chapter

(a) Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city having a population in excess of 750,000, by any city attorney of any city and county, or, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (e), if the action is brought by a city attorney or

city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered. The aforementioned funds shall be for the exclusive use by the Attorney General, the district attorney, the county counsel, and the city attorney for the enforcement of consumer protection laws.

(d) The Unfair Competition Law Fund is hereby created as a special account within the General Fund in the State Treasury. The portion of penalties that is payable to the General Fund or to the Treasurer recovered by the Attorney General from an action or settlement of a claim made by the Attorney General pursuant to this chapter or Chapter 1 (commencing with Section 17500) of Part 3 shall be deposited into this fund. Moneys in this fund, upon appropriation by the Legislature, shall be used by the Attorney General to support investigations and prosecutions of California's consumer protection laws, including implementation of judgments obtained from such prosecutions or investigations and other activities which are in furtherance of this chapter or Chapter 1 (commencing with Section 17500) of Part 3.

(e) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action. Before any penalty collected is paid out pursuant to subdivision (c), the amount of any reasonable expenses incurred by the board shall be paid to the Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency.

(f) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered for the exclusive use by the city attorney for the enforcement of consumer protection laws. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises that were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

17206.1. Additional Penalties for Violations Against Senior Citizens and the Disabled

(a) (1) In addition to any liability for a civil penalty pursuant to Section 17206, any person who violates this chapter, and the act or acts of unfair competition are perpetrated against one or more senior citizens or disabled persons, may be liable for a civil penalty not to

exceed two thousand five hundred dollars (\$2,500) for each violation, which may be assessed and recovered in a civil action as prescribed in Section 17206.

(2) Subject to subdivision (d), any civil penalty shall be paid as prescribed by subdivisions (b) and (c) of Section 17206.

(b) As used in this section, the following terms have the following meanings:

(1) "Senior citizen" means a person who is 65 years of age or older.

(2) "Disabled person" means any person who has a physical or mental impairment that substantially limits one or more major life activities.

(A) As used in this subdivision, "physical or mental impairment" means any of the following: (i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss substantially affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; or endocrine. (ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. "Physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairment, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, and emotional illness.

(B) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(c) In determining whether to impose a civil penalty pursuant to subdivision (a) and the amount thereof, the court shall consider, in addition to any other appropriate factors, the extent to which one or more of the following factors are present:

(1) Whether the defendant knew or should have known that his or her conduct was directed to one or more senior citizens or disabled persons.

(2) Whether the defendant's conduct caused one or more senior citizens or disabled persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement, or for personal or family care and maintenance; or substantial loss of payments received under a pension or retirement plan or a government benefits program, or assets essential to the health or welfare of the senior citizen or disabled person.

(3) Whether one or more senior citizens or disabled persons are substantially more vulnerable than other members of the public to the defendant's conduct because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered substantial physical, emotional, or economic damage resulting from the defendant's conduct.

(d) Any court of competent jurisdiction hearing an action pursuant to this section may make orders and judgments as may be necessary to restore to any senior citizen or disabled person any money or property, real or personal, which may have been acquired by means of a violation of this chapter. Restitution ordered pursuant to this subdivision shall

be given priority over recovery of any civil penalty designated by the court as imposed pursuant to subdivision (a), but shall not be given priority over any civil penalty imposed pursuant to subdivision (a) of Section 17206. If the court determines that full restitution cannot be made to those senior citizens or disabled persons, either at the time of judgment or by a future date determined by the court, then restitution under this subdivision shall be made on a pro rata basis depending on the amount of loss.

17207. Violation of Injunction Against Unfair Competition; Civil Penalties

(a) Any person who intentionally violates any injunction prohibiting unfair competition issued pursuant to Section 17203 shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of that conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of the harm caused by the conduct constituting a violation, the nature and persistence of that conduct, the length of time over which the conduct occurred, the assets, liabilities, and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, or any city attorney in any court of competent jurisdiction within his or her jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover civil penalties shall take precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city, except that if the action was brought by a city attorney of a city and county the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment is entered.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action. Before any penalty collected is paid out pursuant to subdivision (c), the amount of the reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of the reasonable

expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

17208. Statute of Limitation

Any action to enforce any cause of action pursuant to this chapter shall be commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this section shall be revived by its enactment.

17209. Notice of Issue in Action Before Appellate Court

If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate division of a superior court, each person filing any brief or petition with the court in that proceeding shall serve, within three days of filing with the court, a copy of that brief or petition on the Attorney General, directed to the attention of the Consumer Law Section at a service address designated on the Attorney General's official Web site for service of papers under this section or, if no service address is designated, at the Attorney General's office in San Francisco, California, and on the district attorney of the county in which the lower court action or proceeding was originally filed. Upon the Attorney General's or district attorney's request, each person who has filed any other document, including all or a portion of the appellate record, with the court in addition to a brief or petition shall provide a copy of that document without charge to the Attorney General or the district attorney within five days of the request. The time for service may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted or opinion issued until proof of service of the brief or petition on the Attorney General and district attorney is filed with the court.

BUSINESS AND PROFESSIONS CODE

DIVISION 7

PART 3 - REPRESENTATIONS TO THE PUBLIC

CHAPTER 1 - ADVERTISING

17500. False or Misleading Advertising

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.

17500.1. Adoption of Regulations

Notwithstanding any other provision of law, no trade or professional association, or state agency, state board, or state commission within the Department of Consumer Affairs shall enact any rule, regulation, or code of professional ethics which shall restrict or prohibit advertising by any commercial or professional person, firm, partnership or corporation which does not violate the provisions of Section 17500 of the Business and Professions Code, or which is not prohibited by other provisions of law. The provisions of this section shall not apply to any rules or regulations heretofore or hereafter formulated pursuant to Section 6076.

17506.5. "Board Within the Department of Consumer Affairs" Define

As used in this chapter:

(a) "Board within the Department of Consumer Affairs" includes any commission, bureau, division, or other similarly constituted agency within the Department of Consumer Affairs.

(b) "Local consumer affairs agency" means and includes any city or county body which primarily provides consumer protection services.

17535. Injunction – Restitution

Obtaining Injunctive Relief.

Any person, corporation, firm, partnership, joint stock company, or any other association or organization which violates or proposes to violate this chapter may be enjoined by any court of competent jurisdiction. The court may make such orders or judgments, including the appointment of a receiver, as may be necessary to prevent the use or employment by any person, corporation, firm, partnership, joint stock company, or any other association or organization of any practices which violate this chapter, or which may be necessary to restore to any person in interest any money or property, real or personal, which may have been acquired by means of any practice in this chapter declared to be unlawful. Actions for injunction under this section may be prosecuted by the Attorney General or any district attorney, county counsel, city attorney, or city prosecutor in this state in the name of the people of the State of California upon their own complaint or upon the complaint of any board, officer, person, corporation or association or by any person who has suffered injury in fact and has lost money or property as a result of a violation of this chapter. Any person may pursue representative claims or relief on behalf of others only if the claimant meets the standing requirements of this section and complies with Section 382 of the Code of Civil Procedure, but these limitations do not apply to claims brought under this chapter by the Attorney General, or any district attorney, county counsel, city attorney, or city prosecutor in this state.

17535.5. Penalty for Violating Injunction

(a) Any person who intentionally violates any injunction issued pursuant to Section 17535 shall be liable for a civil penalty not to exceed six thousand dollars (\$6,000) for each violation. Where the conduct constituting a violation is of a continuing nature, each day of such conduct is a separate and distinct violation. In determining the amount of the civil penalty, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the conduct constituting a violation, the nature and persistence of such conduct, the length of time over which the conduct occurred, the assets, liabilities and net worth of the person, whether corporate or individual, and any corrective action taken by the defendant.

(b) The civil penalty prescribed by this section shall be assessed and recovered in a civil action brought in any county in which the violation occurs or where the injunction was issued in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction within his jurisdiction without regard to the county from which the original injunction was issued. An action brought pursuant to this section to recover such civil penalties shall take special precedence over all civil matters on the calendar of the court except those matters to which equal precedence on the calendar is granted by law.

(c) If such an action is brought by the Attorney General, one-half of the penalty collected pursuant to this section shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county

counsel, the entire amount of the penalty collected shall be paid to the treasurer of the county in which the judgment is entered. If brought by a city attorney or city prosecutor; one-half of the penalty shall be paid to the treasurer of the county in which the judgment was entered and one-half to the city.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action. Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county which funds the local agency.

17536. Penalty for Violations of Chapter; Proceedings; Disposition of Proceeds

(a) Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city. The aforementioned funds shall be for the exclusive use by the Attorney General, district attorney, county counsel, and city attorney for the enforcement of consumer protection laws.

(d) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action. Before any penalty collected is paid out pursuant to subdivision (c), the amount of such reasonable expenses incurred by the board shall be paid to the State Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such

special fund the moneys shall be paid to the State Treasurer. The amount of such reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality which funds the local agency.

(e) As applied to the penalties for acts in violation of Section 17530, the remedies provided by this section and Section 17534 are mutually exclusive.

17536.5. Notice to Be Served

If a violation of this chapter is alleged or the application or construction of this chapter is in issue in any proceeding in the Supreme Court of California, a state court of appeal, or the appellate division of a superior court, each person filing any brief or petition with the court in that proceeding shall serve, within three days of filing with the court, a copy of that brief or petition on the Attorney General, directed to the attention of the Consumer Law Section at a service address designated on the Attorney General's official Web site for service of papers under this section or, if no service address is designated, at the Attorney General's office in San Francisco, California, and on the district attorney of the county in which the lower court action or proceeding was originally filed. Upon the Attorney General's or district attorney's request, each person who has filed any other document, including all or a portion of the appellate record, with the court in addition to a brief or petition shall provide a copy of that document without charge to the Attorney General or the district attorney within five days of the request. The time for service may be extended by the Chief Justice or presiding justice or judge for good cause shown. No judgment or relief, temporary or permanent, shall be granted or opinion issued until proof of service of the petition or brief on the Attorney General and district attorney is filed with the court.

CIVIL CODE

DIVISION 3, PART 4

TITLE 1.81 – CUSTOMER RECORDS

1798.80. Client (Customer) Records - Definitions

The following definitions apply to this title:

(a) "Business" means a sole proprietorship, partnership, corporation, association, or other group, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the law of this state, any other state, the United States, or of any other country, or the parent or the subsidiary of a financial institution. The term includes an entity that disposes of records.

(b) "Records" means any material, regardless of the physical form, on which information is recorded or preserved by any means, including in written or spoken words, graphically depicted, printed, or electromagnetically transmitted. "Records" does not include publicly available directories containing information an individual has voluntarily consented to have publicly disseminated or listed, such as name, address, or telephone number.

(c) "Customer" means an individual who provides personal information to a business for the purpose of purchasing or leasing a product or obtaining a service from the business.

(d) "Individual" means a natural person.

(e) "Personal information" means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including, but not limited to, his or her name, signature, social security number, physical characteristics or description, address, telephone number, passport number, driver's license or state identification card number, insurance policy number, education, employment, employment history, bank account number, credit card number, debit card number, or any other financial information, medical information, or health insurance information. "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

1798.81. Destruction of Records

A business shall take all reasonable steps to dispose, or arrange for the disposal, of customer records within its custody or control containing personal information when the records are no longer to be retained by the business by

(a) Shredding,

(b) Erasing, or

(c) Otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

1798.81.5. Reasonable Security of Personal Information

(a) It is the intent of the Legislature to ensure that personal information about California residents is protected. To that end, the purpose of this section is to encourage businesses that own or license personal information about Californians to provide reasonable security for that information. For the purpose of this section, the phrase "owns or licenses" is intended to include, but is not limited to, personal information that a business retains as part of the business' internal customer account or for the purpose of using that information in transactions with the person to whom the information relates.

(b) A business that owns or licenses personal information about a California resident shall implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.

(c) A business that discloses personal information about a California resident pursuant to a contract with a nonaffiliated third party shall require by contract that the third party implement and maintain reasonable security procedures and practices appropriate to the nature of the information, to protect the personal information from unauthorized access, destruction, use, modification, or disclosure.

(d) For purposes of this section, the following terms have the following meanings:

(1) "Personal information" means an individual's first name or first initial and his or her last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted or redacted:

(A) Social security number.

(B) Driver's license number or California identification card number.

(C) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(D) Medical information.

(2) "Medical information" means any individually identifiable information, in electronic or physical form, regarding the individual's medical history or medical treatment or diagnosis by a health care professional.

(3) "Personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(e) The provisions of this section do not apply to any of the following:

- (1) A provider of health care, health care service plan, or contractor regulated by the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1).
- (2) A financial institution as defined in Section 4052 of the Financial Code and subject to the California Financial Information Privacy Act (Division 1.2 (commencing with Section 4050) of the Financial Code.
- (3) A covered entity governed by the medical privacy and security rules issued by the federal Department of Health and Human Services, Parts 160 and 164 of Title 45 of the Code of Federal Regulations, established pursuant to the Health Insurance Portability and Availability Act of 1996 (HIPAA).
- (4) An entity that obtains information under an agreement pursuant to Article 3 (commencing with Section 1800) of Chapter 1 of Division 2 of the Vehicle Code and is subject to the confidentiality requirements of the Vehicle Code.
- (5) A business that is regulated by state or federal law providing greater protection to personal information than that provided by this section in regard to the subjects addressed by this section. Compliance with that state or federal law shall be deemed compliance with this section with regard to those subjects. This paragraph does not relieve a business from a duty to comply with any other requirements of other state and federal law regarding the protection and privacy of personal information.

1798.82. Security of Computerized Personal Information

(a) Any person or business that conducts business in California, and that owns or licenses computerized data that includes personal information, shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) Any person or business that maintains computerized data that includes personal information that the person or business does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) Any person or business that is required to issue a security breach notification pursuant to this section shall meet all of the following requirements:

(1) The security breach notification shall be written in plain language.

(2) The security breach notification shall include, at a minimum, the following information:

(A) The name and contact information of the reporting person or business subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, then any of the following:

(i) the date of the breach,

(ii) the estimated date of the breach, or

(iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

(D) Whether notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(F) The toll-free telephone numbers and addresses of the major credit reporting agencies if the breach exposed a social security number or a driver's license or California identification card number.

(3) At the discretion of the person or business, the security breach notification may also include any of the following:

(A) Information about what the person or business has done to protect individuals whose information has been breached.

(B) Advice on steps that the person whose information has been breached may take to protect himself or herself.

(e) A covered entity under the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 1320d et seq.) will be deemed to have complied with the notice requirements in subdivision (d) if it has complied completely with Section 13402(f) of the federal Health Information Technology for Economic and Clinical Health Act (Public Law 111-5). However, nothing in this subdivision shall be construed to exempt a covered entity from any other provision of this section.

(f) Any person or business that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of a security breach notification shall not be deemed to be within subdivision (f) of Section 6254 of the Government Code.

(g) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the person or business. Good faith acquisition of personal information by an employee or agent of the person or business for the purposes of the person or business is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(h) For purposes of this section, "personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

- (1) Social security number.
- (2) Driver's license number or California Identification Card number.
- (3) Account number, credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.
- (4) Medical information.
- (5) Health insurance information.

(i) (1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) For purposes of this section, "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.

(3) For purposes of this section, "health insurance information" means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records.

(j) For purposes of this section, "notice" may be provided by one of the following methods:

- (1) Written notice.
- (2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.
- (3) Substitute notice, if the person or business demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the person or business does not have sufficient contact information. Substitute notice shall consist of all of the following:
 - (A) E-mail notice when the person or business has an e-mail address for the subject persons.
 - (B) Conspicuous posting of the notice on the Internet Web site page of the person or business, if the person or business maintains one.

(C) Notification to major statewide media and the Office of Privacy Protection within the State and Consumer Services Agency.

(k) Notwithstanding subdivision (j), a person or business that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part, shall be deemed to be in compliance with the notification requirements of this section if the person or business notifies subject persons in accordance with its policies in the event of a breach of security of the system.

1798.83. Disclosure to Third Parties

(a) Except as otherwise provided in subdivision (d), if a business has an established business relationship with a customer and has within the immediately preceding calendar year disclosed personal information that corresponds to any of the categories of personal information set forth in paragraph (6) of subdivision (e) to third parties, and if the business knows or reasonably should know that the third parties used the personal information for the third parties' direct marketing purposes, that business shall, after the receipt of a written or electronic mail request, or, if the business chooses to receive requests by toll-free telephone or facsimile numbers, a telephone or facsimile request from the customer, provide all of the following information to the customer free of charge:

(1) In writing or by electronic mail, a list of the categories set forth in paragraph (6) of subdivision (e) that correspond to the personal information disclosed by the business to third parties for the third parties' direct marketing purposes during the immediately preceding calendar year.

(2) In writing or by electronic mail, the names and addresses of all of the third parties that received personal information from the business for the third parties' direct marketing purposes during the preceding calendar year and, if the nature of the third parties' business cannot reasonably be determined from the third parties' name, examples of the products or services marketed, if known to the business, sufficient to give the customer a reasonable indication of the nature of the third parties' business.

(b) (1) A business required to comply with this section shall designate a mailing address, electronic mail address, or, if the business chooses to receive requests by telephone or facsimile, a toll-free telephone or facsimile number, to which customers may deliver requests pursuant to subdivision (a). A business required to comply with this section shall, at its election, do at least one of the following:

(A) Notify all agents and managers who directly supervise employees who regularly have contact with customers of the designated addresses or numbers or the means to obtain those addresses or numbers and instruct those employees that customers who inquire about the business's privacy practices or the business's compliance with this section shall be informed of the designated addresses or numbers or the means to obtain the addresses or numbers.

(B) Add to the home page of its Web site a link either to a page titled "Your Privacy Rights" or add the words "Your Privacy Rights" to the home page's link to the business's privacy policy. If the business elects to add the words "Your Privacy Rights" to the link to the business's privacy policy, the words "Your Privacy Rights" shall be in the same style and size as the link to the business's privacy policy. If the business does not display a link to its privacy policy on the home page of its Web site, or does not have a privacy policy, the words "Your Privacy Rights" shall be written in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the language. The first page of the link shall describe a customer's rights pursuant to this section and shall provide the designated mailing address, e-mail address, as required, or toll-free telephone number or facsimile number, as appropriate. If the business elects to add the words "Your California Privacy Rights" to the home page's link to the business's privacy policy in a manner that complies with this subdivision, and the first page of the link describes a customer's rights pursuant to this section, and provides the designated mailing address, electronic mailing address, as required, or toll-free telephone or facsimile number, as appropriate, the business need not respond to requests that are not received at one of the designated addresses or numbers.

(C) Make the designated addresses or numbers, or means to obtain the designated addresses or numbers, readily available upon request of a customer at every place of business in California where the business or its agents regularly have contact with customers.

The response to a request pursuant to this section received at one of the designated addresses or numbers shall be provided within 30 days. Requests received by the business at other than one of the designated addresses or numbers shall be provided within a reasonable period, in light of the circumstances related to how the request was received, but not to exceed 150 days from the date received.

(2) A business that is required to comply with this section and Section 6803 of Title 15 of the United States Code may comply with this section by providing the customer the disclosure required by Section 6803 of Title 15 of the United States Code, but only if the disclosure also complies with this section.

(3) A business that is required to comply with this section is not obligated to provide information associated with specific individuals and may provide the information required by this section in standardized format.

(c) (1) A business that is required to comply with this section is not obligated to do so in response to a request from a customer more than once during the course of any calendar year. A business with fewer than 20 full-time or part-time employees is exempt from the requirements of this section.

(2) If a business that is required to comply with this section adopts and discloses to the public, in its privacy policy, a policy of not disclosing personal information of customers to third parties for the third parties' direct marketing purposes unless the customer first affirmatively agrees to that disclosure, or of not disclosing the personal information of customers to third parties for the third parties' direct marketing purposes if the customer

has exercised an option that prevents that information from being disclosed to third parties for those purposes, as long as the business maintains and discloses the policies, the business may comply with subdivision (a) by notifying the customer of his or her right to prevent disclosure of personal information, and providing the customer with a cost-free means to exercise that right.

(d) The following are among the disclosures not deemed to be disclosures of personal information by a business for a third party's direct marketing purposes for purposes of this section:

(1) Disclosures between a business and a third party pursuant to contracts or arrangements pertaining to any of the following:

(A) The processing, storage, management, or organization of personal information, or the performance of services on behalf of the business during which personal information is disclosed, if the third party that processes, stores, manages, or organizes the personal information does not use the information for a third party's direct marketing purposes and does not disclose the information to additional third parties for their direct marketing purposes.

(B) Marketing products or services to customers with whom the business has an established business relationship where, as a part of the marketing, the business does not disclose personal information to third parties for the third parties' direct marketing purposes.

(C) Maintaining or servicing accounts, including credit accounts and disclosures pertaining to the denial of applications for credit or the status of applications for credit and processing bills or insurance claims for payment.

(D) Public record information relating to the right, title, or interest in real property or information relating to property characteristics, as defined in Section 408.3 of the Revenue and Taxation Code, obtained from a governmental agency or entity or from a multiple listing service, as defined in Section 1087, and not provided directly by the customer to a business in the course of an established business relationship.

(E) Jointly offering a product or service pursuant to a written agreement with the third party that receives the personal information, provided that all of the following requirements are met:

(i) The product or service offered is a product or service of, and is provided by, at least one of the businesses that is a party to the written agreement.

(ii) The product or service is jointly offered, endorsed, or sponsored by, and clearly and conspicuously identifies for the customer, the businesses that disclose and receive the disclosed personal information.

(iii) The written agreement provides that the third party that receives the personal information is required to maintain the confidentiality of the information and is prohibited from disclosing or using the information other than to carry out the joint offering or servicing of a product or service that is the subject of the written agreement.

(2) Disclosures to or from a consumer reporting agency of a customer's payment history or other information pertaining to transactions or experiences between the business and a customer if that information is to be reported in, or used to generate, a consumer report as defined in subdivision (d) of Section 1681a of Title 15 of the United States Code, and use of that information is limited by the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681 et seq.).

(3) Disclosures of personal information by a business to a third party financial institution solely for the purpose of the business obtaining payment for a transaction in which the customer paid the business for goods or services with a check, credit card, charge card, or debit card, if the customer seeks the information required by subdivision (a) from the business obtaining payment, whether or not the business obtaining payment knows or reasonably should know that the third party financial institution has used the personal information for its direct marketing purposes.

(4) Disclosures of personal information between a licensed agent and its principal, if the personal information disclosed is necessary to complete, effectuate, administer, or enforce transactions between the principal and the agent, whether or not the licensed agent or principal also uses the personal information for direct marketing purposes, if that personal information is used by each of them solely to market products and services directly to customers with whom both have established business relationships as a result of the principal and agent relationship.

(5) Disclosures of personal information between a financial institution and a business that has a private label credit card, affinity card, retail installment contract, or cobranded card program with the financial institution, if the personal information disclosed is necessary for the financial institution to maintain or service accounts on behalf of the business with which it has a private label credit card, affinity card, retail installment contract, or cobranded card program, or to complete, effectuate, administer, or enforce customer transactions or transactions between the institution and the business, whether or not the institution or the business also uses the personal information for direct marketing purposes, if that personal information is used solely to market products and services directly to customers with whom both the business and the financial institution have established business relationships as a result of the private label credit card, affinity card, retail installment contract, or cobranded card program.

(e) For purposes of this section, the following terms have the following meanings:

(1) "Customer" means an individual who is a resident of California who provides personal information to a business during the creation of, or throughout the duration of, an established business relationship if the business relationship is primarily for personal, family, or household purposes.

(2) "Direct marketing purposes" means the use of personal information to solicit or induce a purchase, rental, lease, or exchange of products, goods, property, or services directly to individuals by means of the mail, telephone, or electronic mail for their personal, family, or household purposes. The sale, rental, exchange, or lease of personal information for consideration to businesses is a direct marketing

purpose of the business that sells, rents, exchanges, or obtains consideration for the personal information. "Direct marketing purposes" does not include the use of personal information (A) by bona fide tax exempt charitable or religious organizations to solicit charitable contributions, (B) to raise funds from and communicate with individuals regarding politics and government, (C) by a third party when the third party receives personal information solely as a consequence of having obtained for consideration permanent ownership of accounts that might contain personal information, or (D) by a third party when the third party receives personal information solely as a consequence of a single transaction where, as a part of the transaction, personal information had to be disclosed in order to effectuate the transaction.

(3) "Disclose" means to disclose, release, transfer, disseminate, or otherwise communicate orally, in writing, or by electronic or any other means to any third party.

(4) "Employees who regularly have contact with customers" means employees whose contact with customers is not incidental to their primary employment duties, and whose duties do not predominantly involve ensuring the safety or health of the business's customers. It includes, but is not limited to, employees whose primary employment duties are as cashier, clerk, customer service, sales, or promotion. It does not, by way of example, include employees whose primary employment duties consist of food or beverage preparation or service, maintenance and repair of the business's facilities or equipment, direct involvement in the operation of a motor vehicle, aircraft, watercraft, amusement ride, heavy machinery or similar equipment security, or participation in a theatrical, literary, musical, artistic, or athletic performance or contest.

(5) "Established business relationship" means a relationship formed by a voluntary, two-way communication between a business and a customer, with or without an exchange of consideration, for the purpose of purchasing, renting, or leasing real or personal property, or any interest therein, or obtaining a product or service from the business, if the relationship is ongoing and has not been expressly terminated by the business or the customer, or if the relationship is not ongoing, but is solely established by the purchase, rental, or lease of real or personal property from a business, or the purchase of a product or service, and no more than 18 months have elapsed from the date of the purchase, rental, or lease.

(6) (A) The categories of personal information required to be disclosed pursuant to paragraph (1) of subdivision (a) are all of the following:

- (i) Name and address.
- (ii) Electronic mail address.
- (iii) Age or date of birth.
- (iv) Names of children.
- (v) Electronic mail or other addresses of children.
- (vi) Number of children.
- (vii) The age or gender of children.
- (viii) Height.
- (ix) Weight.

- (x) Race.
- (xi) Religion.
- (xii) Occupation.
- (xiii) Telephone number.
- (xiv) Education.
- (xv) Political party affiliation.
- (xvi) Medical condition.
- (xvii) Drugs, therapies, or medical products or equipment used.
- (xviii) The kind of product the customer purchased, leased, or rented.
- (xix) Real property purchased, leased, or rented.
- (xx) The kind of service provided.
- (xxi) Social security number.
- (xxii) Bank account number.
- (xxiii) Credit card number.
- (xxiv) Debit card number.
- (xxv) Bank or investment account, debit card, or credit card balance.
- (xxvi) Payment history.
- (xxvii) Information pertaining to the customer's creditworthiness, assets, income, or liabilities.

(B) If a list, description, or grouping of customer names or addresses is derived using any of these categories, and is disclosed to a third party for direct marketing purposes in a manner that permits the third party to identify, determine, or extrapolate any other personal information from which the list was derived, and that personal information when it was disclosed identified, described, or was associated with an individual, the categories set forth in this subdivision that correspond to the personal information used to derive the list, description, or grouping shall be considered personal information for purposes of this section.

(7) "Personal information" as used in this section means any information that when it was disclosed identified, described, or was able to be associated with an individual and includes all of the following:

- (A) An individual's name and address.
- (B) Electronic mail address.
- (C) Age or date of birth.
- (D) Names of children.
- (E) Electronic mail or other addresses of children.
- (F) Number of children.
- (G) The age or gender of children.
- (H) Height.
- (I) Weight.
- (J) Race.
- (K) Religion.
- (L) Occupation.
- (M) Telephone number.
- (N) Education.

- (O) Political party affiliation.
- (P) Medical condition.
- (Q) Drugs, therapies, or medical products or equipment used.
- (R) The kind of product the customer purchased, leased, or rented.
- (S) Real property purchased, leased, or rented.
- (T) The kind of service provided.
- (U) Social security number.
- (V) Bank account number.
- (W) Credit card number.
- (X) Debit card number.
- (Y) Bank or investment account, debit card, or credit card balance.
- (Z) Payment history.
- (AA) Information pertaining to creditworthiness, assets, income, or liabilities.

(8) "Third party" or "third parties" means one or more of the following:

- (A) A business that is a separate legal entity from the business that has an established business relationship with a customer.
- (B) A business that has access to a database that is shared among businesses, if the business is authorized to use the database for direct marketing purposes, unless the use of the database is exempt from being considered a disclosure for direct marketing purposes pursuant to subdivision (d).
- (C) A business not affiliated by a common ownership or common corporate control with the business required to comply with subdivision (a).

(f) (1) Disclosures of personal information for direct marketing purposes between affiliated third parties that share the same brand name are exempt from the requirements of paragraph (1) of subdivision (a) unless the personal information disclosed corresponds to one of the following categories, in which case the customer shall be informed of those categories listed in this subdivision that correspond to the categories of personal information disclosed for direct marketing purposes and the third party recipients of personal information disclosed for direct marketing purposes pursuant to paragraph (2) of subdivision (a):

- (A) Number of children.
- (B) The age or gender of children.
- (C) Electronic mail or other addresses of children.
- (D) Height.
- (E) Weight.
- (F) Race.
- (G) Religion.
- (H) Telephone number.
- (I) Medical condition.
- (J) Drugs, therapies, or medical products or equipment used.
- (K) Social security number.
- (L) Bank account number.

- (M) Credit card number.
- (N) Debit card number.
- (O) Bank or investment account, debit card, or credit card balance.

(2) If a list, description, or grouping of customer names or addresses is derived using any of these categories, and is disclosed to a third party or third parties sharing the same brand name for direct marketing purposes in a manner that permits the third party to identify, determine, or extrapolate the personal information from which the list was derived, and that personal information when it was disclosed identified, described, or was associated with an individual, any other personal information that corresponds to the categories set forth in this subdivision used to derive the list, description, or grouping shall be considered personal information for purposes of this section.

(3) If a business discloses personal information for direct marketing purposes to affiliated third parties that share the same brand name, the business that discloses personal information for direct marketing purposes between affiliated third parties that share the same brand name may comply with the requirements of paragraph (2) of subdivision (a) by providing the overall number of affiliated companies that share the same brand name.

(g) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(h) This section does not apply to a financial institution that is subject to the California Financial Information Privacy Act (Division 1.2 (commencing with Section 4050) of the Financial Code) if the financial institution is in compliance with Sections 4052, 4052.5, 4053, 4053.5, and 4054.6 of the Financial Code, as those sections read when they were chaptered on August 28, 2003, and as subsequently amended by the Legislature or by initiative.

(i) This section shall become operative on January 1, 2005.

1798.84. Violations of This Title

(a) Any waiver of a provision of this title is contrary to public policy and is void and unenforceable.

(b) Any customer injured by a violation of this title may institute a civil action to recover damages.

(c) In addition, for a willful, intentional, or reckless violation of Section 1798.83, a customer may recover a civil penalty not to exceed three thousand dollars (\$3,000) per violation; otherwise, the customer may recover a civil penalty of up to five hundred dollars (\$500) per violation for a violation of Section 1798.83.

(d) Unless the violation is willful, intentional, or reckless, a business that is alleged to have not provided all the information required by subdivision (a) of Section 1798.83, to have

provided inaccurate information, failed to provide any of the information required by subdivision (a) of Section 1798.83, or failed to provide information in the time period required by subdivision (b) of Section 1798.83, may assert as a complete defense in any action in law or equity that it thereafter provided regarding the information that was alleged to be untimely, all the information, or accurate information, to all customers who were provided incomplete or inaccurate information, respectively, within 90 days of the date the business knew that it had failed to provide the information, timely information, all the information, or the accurate information, respectively.

(e) Any business that violates, proposes to violate, or has violated this title may be enjoined.

(f) (1) A cause of action shall not lie against a business for disposing of abandoned records containing personal information by shredding, erasing, or otherwise modifying the personal information in the records to make it unreadable or undecipherable through any means.

(2) The Legislature finds and declares that when records containing personal information are abandoned by a business, they often end up in the possession of a storage company or commercial landlord. It is the intent of the Legislature in paragraph (1) to create a safe harbor for such a record custodian who properly disposes of the records in accordance with paragraph (1).

(g) A prevailing plaintiff in any action commenced under Section 1798.83 shall also be entitled to recover his or her reasonable attorney's fees and costs.

(h) The rights and remedies available under this section are cumulative to each other and to any other rights and remedies available under law.

CORPORATIONS CODE

TITLE 1, DIVISION 3

Part 4 – MOSCONE-KNOX PROFESSIONAL CORPORATION ACT

13400. Citation

This part shall be known and may be cited as the "Moscone-Knox Professional Corporation Act."

13401. Definitions

As used in this part:

(a) "Professional services" means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act.

(b) "Professional corporation" means a corporation organized under the General Corporation Law or pursuant to subdivision (b) of Section 13406 that is engaged in rendering professional services in a single profession, except as otherwise authorized in Section 13401.5, pursuant to a certificate of registration issued by the governmental agency regulating the profession as herein provided and that in its practice or business designates itself as a professional or other corporation as may be required by statute. However, any professional corporation or foreign professional corporation rendering professional services by persons duly licensed by the Medical Board of California or any examining committee under the jurisdiction of the board, the Osteopathic Medical Board of California, the Dental Board of California, the California State Board of Pharmacy, the Veterinary Medical Board, the California Architects Board, the Court Reporters Board of California, the Board of Behavioral Sciences, the Speech-Language Pathology and Audiology Board, the Board of Registered Nursing, or the State Board of Optometry shall not be required to obtain a certificate of registration in order to render those professional services.

(c) "Foreign professional corporation" means a corporation organized under the laws of a state of the United States other than this state that is engaged in a profession of a type for which there is authorization in the Business and Professions Code for the performance of professional services by a foreign professional corporation.

(d) "Licensed person" means any natural person who is duly licensed under the provisions of the Business and Professions Code, the Chiropractic Act, or the Osteopathic Act to render the same professional services as are or will be rendered by the professional corporation or foreign professional corporation of which he or she is or intends to become, an officer, director, shareholder, or employee.

(e) "Disqualified person" means a licensed person who for any reason becomes legally disqualified (temporarily or permanently) to render the professional services that the

particular professional corporation or foreign professional corporation of which he or she is an officer, director, shareholder, or employee is or was rendering.

13401.3. Definition of Professional Services

As used in this part, "professional services" also means any type of professional services that may be lawfully rendered only pursuant to a license, certification, or registration authorized by the Yacht and Ship Brokers Act (Article 2 (commencing with Section 700) of Chapter 5 of Division 3 of the Harbors and Navigation Code).

13401.5. Ownership Restrictions

Notwithstanding subdivision (d) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors, or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by those licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein, and so long as the number of those licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

- (a) Medical corporation.
 - (1) Licensed doctors of podiatric medicine.
 - (2) Licensed psychologists.
 - (3) Registered nurses.
 - (4) Licensed optometrists.
 - (5) Licensed marriage and family therapists.
 - (6) Licensed clinical social workers.
 - (7) Licensed physician assistants.
 - (8) Licensed chiropractors.
 - (9) Licensed acupuncturists.
 - (10) Naturopathic doctors.
 - (11) Licensed professional clinical counselors.
- (b) Podiatric medical corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed psychologists.
 - (3) Registered nurses.
 - (4) Licensed optometrists.
 - (5) Licensed chiropractors.
 - (6) Licensed acupuncturists.
 - (7) Naturopathic doctors.
- (c) Psychological corporation.
 - (1) Licensed physicians and surgeons.
 - (2) Licensed doctors of podiatric medicine.
 - (3) Registered nurses.
 - (4) Licensed optometrists.
 - (5) Licensed marriage and family therapists.

- (6) Licensed clinical social workers.
- (7) Licensed chiropractors.
- (8) Licensed acupuncturists.
- (9) Naturopathic doctors.
- (10) Licensed professional clinical counselors.
- (d) Speech-language pathology corporation.
- (1) Licensed audiologists.
- (e) Audiology corporation.
- (1) Licensed speech-language pathologists.
- (f) Nursing corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Licensed optometrists.
- (5) Licensed marriage and family therapists.
- (6) Licensed clinical social workers.
- (7) Licensed physician assistants.
- (8) Licensed chiropractors.
- (9) Licensed acupuncturists.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.
- (g) Marriage and family therapist corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed clinical social workers.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (8) Licensed professional clinical counselors.
- (h) Licensed clinical social worker corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed marriage and family therapists.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (8) Licensed professional clinical counselors.
- (i) Physician assistants corporation.
- (1) Licensed physicians and surgeons.
- (2) Registered nurses.
- (3) Licensed acupuncturists.
- (4) Naturopathic doctors.
- (j) Optometric corporation.
- (1) Licensed physicians and surgeons.

- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Naturopathic doctors.
- (k) Chiropractic corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed optometrists.
- (6) Licensed marriage and family therapists.
- (7) Licensed clinical social workers.
- (8) Licensed acupuncturists.
- (9) Naturopathic doctors.
- (10) Licensed professional clinical counselors.
- (l) Acupuncture corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed doctors of podiatric medicine.
- (3) Licensed psychologists.
- (4) Registered nurses.
- (5) Licensed optometrists.
- (6) Licensed marriage and family therapists.
- (7) Licensed clinical social workers.
- (8) Licensed physician assistants.
- (9) Licensed chiropractors.
- (10) Naturopathic doctors.
- (11) Licensed professional clinical counselors.
- (m) Naturopathic doctor corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Registered nurses.
- (4) Licensed physician assistants.
- (5) Licensed chiropractors.
- (6) Licensed acupuncturists.
- (7) Licensed physical therapists.
- (8) Licensed doctors of podiatric medicine.
- (9) Licensed marriage and family therapists.
- (10) Licensed clinical social workers.
- (11) Licensed optometrists.
- (12) Licensed professional clinical counselors.
- (n) Dental corporation.
- (1) Licensed physicians and surgeons.
- (2) Dental assistants.
- (3) Registered dental assistants.

- (4) Registered dental assistants in extended functions.
- (5) Registered dental hygienists.
- (6) Registered dental hygienists in extended functions.
- (7) Registered dental hygienists in alternative practice.
- (o) Professional clinical counselor corporation.
- (1) Licensed physicians and surgeons.
- (2) Licensed psychologists.
- (3) Licensed clinical social workers.
- (4) Licensed marriage and family therapists.
- (5) Registered nurses.
- (6) Licensed chiropractors.
- (7) Licensed acupuncturists.
- (8) Naturopathic doctors.

13402. Effect on Existing Laws

(a) This part shall not apply to any corporation now in existence or hereafter organized which may lawfully render professional services other than pursuant to this part, nor shall anything herein contained alter or affect any right or privilege, whether under any existing or future provision of the Business and Professions Code or otherwise, in terms permitting or not prohibiting performance of professional services through the use of any form of corporation permitted by the General Corporation Law.

(b) The conduct of a business in this state by a corporation pursuant to a license or registration issued under any state law, except laws relating to taxation, shall not be considered to be the conduct of a business as a professional corporation if the business is conducted by, and the license or registration is issued to, a corporation which is not a professional corporation within the meaning of this part, whether or not a professional corporation could conduct the same business, or portions of the same business, as a professional corporation.

13403. Officers, Directors and Shareholders

The provisions of the General Corporation Law shall apply to professional corporations, except where such provisions are in conflict with or inconsistent with the provisions of this part. A professional corporation which has only one shareholder need have only one director who shall be such shareholder and who shall also serve as the president and treasurer of the corporation. The other officers of the corporation in such situation need not be licensed persons. A professional corporation which has only two shareholders need have only two directors who shall be such shareholders. The two shareholders between them shall fill the offices of president, vice president, secretary and treasurer.

A professional medical corporation may establish in its articles or bylaws the manner in which its directors are selected and removed, their powers, duties, and compensation. Each term of office may not exceed three years. Notwithstanding the foregoing, the articles or bylaws of a professional medical corporation with more than 200 shareholders may provide that directors who are officers of the corporation or who are responsible for the

management of all medical services at one or more medical centers may have terms of office, as directors, of up to six years; however, no more than 50 percent of the members of the board, plus one additional member of the board, may have six-year terms of office.

13404. Certificate of Registration Required; Exemptions

A corporation may be formed under the General Corporation Law or pursuant to subdivision (b) of Section 13406 for the purposes of qualifying as a professional corporation in the manner provided in this part and rendering professional services. The articles of incorporation of a professional corporation shall contain a specific statement that the corporation is a professional corporation within the meaning of this part. Except as provided in subdivision (b) of Section 13401, no professional corporation shall render professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which such corporation is or proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code or the Chiropractic Act expressly authorizing such professional services to be rendered by a professional corporation.

13404.5. Foreign Professional Corporation

(a) A foreign professional corporation may qualify as a foreign corporation to transact intrastate business in this state in accordance with Chapter 21 (commencing with Section 2100) of Division 1. A foreign professional corporation shall be subject to the provisions of the General Corporation Law applicable to foreign corporations, except where those provisions are in conflict with or inconsistent with the provisions of this part. The statement and designation filed by the foreign professional corporation pursuant to Section 2105 shall contain a specific statement that the corporation is a foreign professional corporation within the meaning of this part.

(b) No foreign professional corporation shall render professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which that corporation proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code expressly authorizing those professional services to be rendered by a foreign professional corporation.

(c) If the California board, commission, or other agency that prescribes the rules or regulations governing a particular profession either now or hereafter requires that the shareholders of the professional corporation bear any degree of personal liability for the acts of the corporation, either by personal guarantee or in some other form that the governing agency prescribes, the shareholders of a foreign corporation that has been qualified to do business in this state in the same profession shall, as a condition of doing business in this state, be subject, with regard to the rendering of professional services by the professional corporation in California, or for California residents, to the same degree of personal liability, if any, as is prescribed by the governing agency for shareholders of a California professional corporation rendering services in the same profession.

(d) Each application by a foreign professional corporation to qualify to do business in this state shall contain the following statement:

"The shareholders of the undersigned foreign professional corporation shall be subject, with regard to the rendering of professional services by the professional corporation in California, or for California residents, to the same degree of personal liability, if any, in California as is from time to time prescribed by the agency governing the profession in this state for shareholders in a California professional corporation rendering services in the same profession. This application accordingly constitutes a submission to the jurisdiction of the courts of California to the same extent, but only to the same extent, as applies to the shareholders of a California professional corporation in the same profession. The foregoing submission to jurisdiction is a condition of qualification to do business in this state."

13405. Corporation May Render Services

(a) Subject to the provisions of Section 13404, a professional corporation may lawfully render professional services in this state, but only through employees who are licensed persons. The corporation may employ persons not so licensed, but such persons shall not render any professional services rendered or to be rendered by that corporation in this state. A professional corporation may render professional services outside of this state, but only through employees who are licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. Nothing in this section is intended to prohibit the rendition of occasional professional services in another jurisdiction as an incident to the licensee's primary practice, so long as it is permitted by the governing agency that regulates the particular profession in the jurisdiction. Nothing in this section is intended to prohibit the rendition of occasional professional services in this state as an incident to a professional employee's primary practice for a foreign professional corporation qualified to render professional services in this state, so long as it is permitted by the governing agency that regulates the particular profession in this state.

(b) Subject to Section 13404.5, a foreign professional corporation qualified to render professional services in this state may lawfully render professional services in this state, but only through employees who are licensed persons, and shall render professional services outside of this state only through persons who are licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices. The foreign professional corporation may employ persons in this state who are not licensed in this state, but those persons shall not render any professional services rendered or to be rendered by the corporation in this state.

(c) Nothing in this section or in this part is intended to, or shall, augment, diminish or otherwise alter existing provisions of law, statutes or court rules relating to services by a California attorney in another jurisdiction, or services by an out-of-state attorney in California. These existing provisions, including, but not limited to, admission pro hac vice and the taking of depositions in a jurisdiction other than the one in which the deposing attorney is admitted to practice, shall remain in full force and effect.

13406. Share Restrictions

(a) Subject to the provisions of subdivision (b), shares of capital stock in a professional corporation may be issued only to a licensed person or to a person who is licensed to render the same professional services in the jurisdiction or jurisdictions in which the person practices, and any shares issued in violation of this restriction shall be void. Unless there is a public offering of securities by a professional corporation or by a foreign professional corporation in this state, its financial statements shall be treated by the Commissioner of Corporations as confidential, except to the extent that such statements shall be subject to subpoena in connection with any judicial or administrative proceeding, and may be admissible in evidence therein. No shareholder of a professional corporation or of a foreign professional corporation qualified to render professional services in this state shall enter into a voting trust, proxy, or any other arrangement vesting another person (other than another person who is a shareholder of the same corporation) with the authority to exercise the voting power of any or all of his or her shares, and any such purported voting trust, proxy or other arrangement shall be void.

(b) A professional law corporation may be incorporated as a nonprofit public benefit corporation under the Nonprofit Public Benefit Corporation Law under either of the following circumstances:

(1) The corporation is a qualified legal services project or a qualified support center within the meaning of subdivisions (a) and (b) of Section 6213 of the Business and Professions Code.

(2) The professional law corporation otherwise meets all of the requirements and complies with all of the provisions of the Nonprofit Public Benefit Corporation Law, as well as all of the following requirements:

(A) All of the members of the corporation, if it is a membership organization as described in the Nonprofit Corporation Law, are persons licensed to practice law in California.

(B) All of the members of the professional law corporation's board of directors are persons licensed to practice law in California.

(C) Seventy percent of the clients to whom the corporation provides legal services are lower income persons as defined in Section 50079.5 of the Health and Safety Code, and to other persons who would not otherwise have access to legal services.

(D) The corporation shall not enter into contingency fee contracts with clients.

(c) A professional law corporation incorporated as a nonprofit public benefit corporation that is a recipient in good standing as defined in subdivision (c) of Section 6213 of the Business and Professions Code shall be deemed to have satisfied all of the filing requirements of a professional law corporation under Sections 6161.1, 6162, and 6163 of the Business and Professions Code.

13407. Transfer of Share Restricted

Shares in a professional corporation or a foreign professional corporation qualified to render professional services in this state may be transferred only to a licensed person, to a shareholder of the same corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a professional corporation, and any transfer in violation of this restriction shall be void, except as provided herein.

A professional corporation may purchase its own shares without regard to any restrictions provided by law upon the repurchase of shares, if at least one share remains issued and outstanding.

If a professional corporation or a foreign professional corporation qualified to render professional services in this state shall fail to acquire all of the shares of a shareholder who is disqualified from rendering professional services in this state or of a deceased shareholder who was, on his or her date of death, licensed to render professional services in this state, or if such a disqualified shareholder or the representative of such a deceased shareholder shall fail to transfer said shares to the corporation, to another shareholder of the corporation, to a person licensed to practice the same profession in the jurisdiction or jurisdictions in which the person practices, or to a licensed person, within 90 days following the date of disqualification, or within six months following the date of death of the shareholder, as the case may be, then the certificate of registration of the corporation may be suspended or revoked by the governmental agency regulating the profession in which the corporation is engaged. In the event of such a suspension or revocation, the corporation shall cease to render professional services in this state.

Notwithstanding any provision in this part, upon the death or incapacity of a dentist, any individual named in subdivision (a) of Section 1625.3 of the Business and Professions Code may employ licensed dentists and dental assistants and charge for their professional services for a period not to exceed 12 months from the date of death or incapacity of the dentist. The employment of licensed dentists and dental assistants shall not be deemed the practice of dentistry within the meaning of Section 1625 of the Business and Professions Code, provided that all of the requirements of Section 1625.4 of the Business and Professions Code are met. If an individual listed in Section 1625.3 of the Business and Professions Code is employing licensed persons and dental assistants, then the shares of a deceased or incapacitated dentist shall be transferred as provided in this section no later than 12 months from the date of death or incapacity of the dentist.

13408. Suspension or Revocation

The following shall be grounds for the suspension or revocation of the certificate of registration of a professional corporation or a foreign professional corporation qualified to render professional services in this state: (a) if all shareholders who are licensed persons of such corporation shall at any one time become disqualified persons, or (b) if the sole shareholder shall become a disqualified person, or (c) if such corporation shall knowingly employ or retain in its employment a disqualified person, or (d) if such corporation shall

violate any applicable rule or regulation adopted by the governmental agency regulating the profession in which such corporation is engaged, or (e) if such corporation shall violate any statute applicable to a professional corporation or to a foreign professional corporation, or (f) any ground for such suspension or revocation specified in the Business and Professions Code relating to the profession in which such corporation is engaged. In the event of such suspension or revocation of its certificate of registration such corporation shall cease forthwith to render professional services in this state.

13409. Name

(a) A professional corporation may adopt any name permitted by a law expressly applicable to the profession in which such corporation is engaged or by a rule or regulation of the governmental agency regulating such profession. The provisions of subdivision (b) of Section 201 shall not apply to the name of a professional corporation if such name shall contain and be restricted to the name or the last name of one or more of the present, prospective, or former shareholders or of persons who were associated with a predecessor person, partnership or other organization or whose name or names appeared in the name of such predecessor organization, and the Secretary of State shall have no authority by reason of subdivision (b) of Section 201 to refuse to file articles of incorporation which set forth such a name; provided, however, that such name shall not be substantially the same as the name of a domestic corporation, the name of a foreign corporation qualified to render professional services in this state which is authorized to transact business in this state, or a name which is under reservation for another corporation. The Secretary of State may require proof by affidavit or otherwise establishing that the name of the professional corporation complies with the requirements of this section and of the law governing the profession in which such professional corporation is engaged. The statements of fact in such affidavits may be accepted by the Secretary of State as sufficient proof of the facts.

(b) A foreign professional corporation qualified to render professional services in this state may transact intrastate business in this state by any name permitted by a law expressly applicable to the profession in which the corporation is engaged, or by a rule or regulation of the governmental agency regulating the rendering of professional services in this state by the corporation. The provisions of subdivision (b) of Section 201 shall not apply to the name of a foreign professional corporation if the name contains and is restricted to the name or the last name of one or more of the present, prospective, or former shareholders or of persons who were associated with a predecessor person, partnership, or other organization, or whose name or names appeared in the name of the predecessor organization, and the Secretary of State shall have no authority by reason of subdivision (b) of Section 201 to refuse to issue a certificate of qualification to a foreign professional corporation that sets forth that name in its statement and designation; provided, however, that such a name shall not be substantially the same as the name of a domestic corporation, the name of a foreign corporation qualified to render professional services in the state, or a name that is under reservation for another corporation. The Secretary of State may require proof by affidavit or otherwise establishing that the name of the foreign professional corporation qualified to render professional services in this state complies with the requirements of this section and of the law governing the profession in which the

foreign professional corporation qualified to render professional services in this state proposes to engage in this state. The statements of fact in such affidavits may be accepted by the Secretary of State as sufficient proof of the facts.

13410. Rules and Regulations Applicable

(a) A professional corporation or a foreign professional corporation qualified to render professional services in this state shall be subject to the applicable rules and regulations adopted by, and all the disciplinary provisions of the Business and Professions Code expressly governing the practice of the profession in this state, and to the powers of, the governmental agency regulating the profession in which such corporation is engaged. Nothing in this part shall affect or impair the disciplinary powers of any such governmental agency over licensed persons or any law, rule or regulation pertaining to the standards for professional conduct of licensed persons or to the professional relationship between any licensed person furnishing professional services and the person receiving such services.

(b) With respect to any foreign professional corporation qualified to render professional services in this state, each such governmental agency shall adopt rules, regulations, and orders as appropriate to restrict or prohibit any disqualified person from doing any of the following:

- (1) Being a shareholder, director, officer, or employee of the corporation.
- (2) Rendering services in any profession in which he or she is a disqualified person.
- (3) Participating in the management of the corporation.
- (4) Sharing in the income of the corporation.

CORPORATIONS CODE

TITLE 2

CHAPTER 5 – UNIFORM PARTNERSHIP ACT OF 1994

Article 10 (Sections 16951-16962)

16100. Citation

This chapter may be cited as the Uniform Partnership Act of 1994.

16951. Registration of Limited Liability Partnerships

For purposes of this chapter, the only types of limited liability partnerships that shall be recognized are a registered limited liability partnership and a foreign limited liability partnership, as defined in Section 16101. No registered limited liability partnership or foreign limited liability partnership may render professional limited liability partnership services in this state except through licensed persons.

16952. Name Limited Liability Partnership

The name of a registered limited liability partnership shall contain the words "Registered Limited Liability Partnership" or "Limited Liability Partnership" or one of the abbreviations "L.L.P.," "LLP," "R.L.L.P.," or "RLLP" as the last words or letters of its name.

16953. Filing Requirements

(a) To become a registered limited liability partnership, a partnership, other than a limited partnership, shall file with the Secretary of State a registration, executed by one or more partners authorized to execute a registration, stating all of the following:

- (1) The name of the partnership.
- (2) The address of its principal office.
- (3) The name and address of the agent for service of process on the limited liability partnership in California.
- (4) A brief statement of the business in which the partnership engages.
- (5) Any other matters that the partnership determines to include.
- (6) That the partnership is registering as a registered limited liability partnership.

(b) The registration shall be accompanied by a fee as set forth in subdivision (a) of Section 12189 of the Government Code.

(c) The Secretary of State shall register as a registered limited liability partnership any partnership that submits a completed registration with the required fee.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon

receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the date of the original filing.

(e) A partnership becomes a registered limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues as a registered limited liability partnership until a notice that it is no longer a registered limited liability partnership has been filed pursuant to subdivision (b) of Section 16954 or, if applicable, until it has been dissolved and finally wound up. The status of a partnership as a registered limited liability partnership and the liability of a partner of the registered limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in a registration under subdivision (a) or an amended registration or notice under Section 16954.

(f) The fact that a registration or amended registration pursuant to this section is on file with the Secretary of State is notice that the partnership is a registered limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 16956. The Secretary of State shall include with instructional materials provided in conjunction with the form for a registration under subdivision (a) a notice that filing the registration will obligate the limited liability partnership to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17948 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of the tax.

(h) A limited liability partnership providing professional limited liability partnership services in this state shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or other agency that prescribes the rules and regulations governing the particular profession in which the partnership proposes to engage, pursuant to the applicable provisions of the Business and Professions Code relating to that profession. The state board, commission, or other agency shall not disclose, unless compelled by a subpoena or other order of a court of competent jurisdiction, any information it receives in the course of evaluating the compliance of a limited liability partnership with applicable statutory and administrative registration or filing requirements, provided that nothing in this section shall be construed to prevent a state board, commission, or other agency from disclosing the manner in which the limited liability partnership has complied with the requirements of Section 16956, or the

compliance or noncompliance by the limited liability partnership with any other requirements of the state board, commission, or other agency.

16954. Amendment of Registration

(a) The registration of a registered limited liability partnership may be amended by an amended registration executed by one or more partners authorized to execute an amended registration and filed with the Secretary of State, as soon as reasonably practical after any information set forth in the registration or previously filed amended registration becomes inaccurate or to add information to the registration or amended registration.

(b) If a registered limited liability partnership ceases to be a registered limited liability partnership, it shall file with the Secretary of State a notice, executed by one or more partners authorized to execute the notice, that it is no longer a registered limited liability partnership. The notice shall state that a final annual tax return, as described by Section 17948.3 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of Division 2 of the Revenue and Taxation Code.

(c) An amendment pursuant to subdivision (a) and a notice pursuant to subdivision (b) shall each be accompanied by a fee as set forth in subdivision (c) of Section 12189 of the Government Code.

(d) The Secretary of State shall provide forms for an amended registration under subdivision (a) and a notice under subdivision (b).

(e) A notice of cessation, signed pursuant to subdivision (b), shall be filed with the Secretary of State. The Secretary of State shall notify the Franchise Tax Board of the cessation.

16955. Conversion to a Limited Liability Partnership

(a) A domestic partnership, other than a limited partnership, may convert to a registered limited liability by the vote of the partners possessing a majority of the interests of its partners in the current profits of the partnership or by a different vote as may be required in its partnership agreement.

(b) When such a conversion takes effect, all of the following apply:

(1) All property, real and personal, tangible and intangible, of the converting partnership remains vested in the converted registered limited liability partnership.

(2) All debts, obligations, liabilities, and penalties of the converting partnership continue as debts, obligations, liabilities, and penalties of the converted registered limited liability partnership.

(3) Any action, suit, or proceeding, civil or criminal, then pending by or against the converting partnership may be continued as if the conversion had not occurred.

(4) To the extent provided in the agreement of conversion and in this chapter, the partners of a partnership shall continue as partners in the converted registered limited liability partnership.

(5) A partnership that has been converted to a registered limited liability partnership pursuant to this chapter is the same person that existed prior to the conversion.

16956. Security for Claims

(a) At the time of registration pursuant to Section 16953, in the case of a registered limited liability partnership, and Section 16959, in the case of a foreign limited liability partnership, and at all times during which those partnerships shall transact intrastate business, every registered limited liability partnership and foreign limited liability partnership, as the case may be, shall be required to provide security for claims against it as follows:

(1) For claims based upon acts, errors, or omissions arising out of the practice of public accountancy, a registered limited liability partnership or foreign limited liability partnership providing accountancy services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed five million dollars (\$5,000,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover:

(i) in the case of a claims-made policy, claims initially asserted in the designated period, and

(ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars (\$5,000,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing accountancy services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars (\$10,000,000).

(2) For claims based upon acts, errors, or omissions arising out of the practice of law, a registered limited liability partnership or foreign limited liability partnership providing legal services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of insurance shall be obtained for each additional licensee; however, the maximum amount of insurance is not required to exceed seven million five hundred thousand dollars (\$7,500,000) in any one designated period, less amounts paid in defending, settling, or discharging claims as set forth in this subparagraph. The policy or policies may be issued on a claims-made or occurrence basis, and shall cover (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Each registered limited liability partnership or foreign limited liability partnership providing legal services shall maintain in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed

by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensed persons shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed seven million five hundred thousand dollars (\$7,500,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirement of this subparagraph.

(C) Unless the partnership has satisfied the requirements of subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing legal services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with the provisions of subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding fifteen million dollars (\$15,000,000).

(3) For claims based upon acts, errors, or omissions arising out of the practice of architecture, a registered limited liability partnership or foreign limited liability partnership providing architectural services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of liability coverage shall be obtained for each additional licensee; however, the total aggregate limit of liability under the policy or policies of insurance is not required to exceed five million dollars (\$5,000,000). The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention.

Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than one million dollars (\$1,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars (\$5,000,000). The partnership remains in compliance with this section during a calendar year notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence

as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing architectural services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars (\$10,000,000).

(4) For claims based upon acts, errors, or omissions arising out of the practice of engineering or the practice of land surveying, a registered limited liability partnership or foreign limited liability partnership providing engineering or land surveying services shall comply with one, or pursuant to subdivision (b) some combination, of the following:

(A) Maintaining a policy or policies of insurance against liability imposed on or against it by law for damages arising out of claims; however, the total aggregate limit of liability under the policy or policies of insurance for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than two million dollars (\$2,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of liability coverage shall be obtained for each additional licensee; however, the total aggregate limit of liability under the policy or policies of insurance is not required to exceed five million dollars (\$5,000,000). The policy or policies may be issued on a claims-made or occurrence basis, and shall cover: (i) in the case of a claims-made policy, claims initially asserted in the designated period, and (ii) in the case of an occurrence policy, occurrences

during the designated period. For purposes of this subparagraph, "designated period" means a policy year or any other period designated in the policy that is not greater than 12 months. The impairment or exhaustion of the aggregate limit of liability by amounts paid under the policy in connection with the settlement, discharge, or defense of claims applicable to a designated period shall not require the partnership to acquire additional insurance coverage for that designated period. The policy or policies of insurance may be in a form reasonably available in the commercial insurance market and may be subject to those terms, conditions, exclusions, and endorsements that are typically contained in those policies. A policy or policies of insurance maintained pursuant to this subparagraph may be subject to a deductible or self-insured retention. Upon the dissolution and winding up of the partnership, the partnership shall, with respect to any insurance policy or policies then maintained pursuant to this subparagraph, maintain or obtain an extended reporting period endorsement or equivalent provision in the maximum total aggregate limit of liability required to comply with this subparagraph for a minimum of three years if reasonably available from the insurer.

(B) Maintaining in trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies as security for payment of liabilities imposed by law for damages arising out of all claims; however, the maximum amount of security for partnerships with five or fewer licensees rendering professional services on behalf of the partnership shall not be less than two million dollars (\$2,000,000), and for partnerships with more than five licensees rendering professional services on behalf of the partnership, an additional one hundred thousand dollars (\$100,000) of security shall be obtained for each additional licensee; however, the maximum amount of security is not required to exceed five million dollars (\$5,000,000). The partnership remains in compliance with this section during a calendar year, notwithstanding amounts paid during that calendar year from the accounts, funds, Treasury obligations, letters of credit, or bonds in defending, settling, or discharging claims of the type described in this paragraph, provided that the amount of those accounts, funds, Treasury obligations, letters of credit, or bonds was at least the amount specified in the preceding sentence as of the first business day of that calendar year. Notwithstanding the pendency of other claims against the partnership, a registered limited liability partnership or foreign limited liability partnership shall be deemed to be in compliance with this subparagraph as to a claim if, within 30 days after the time that a claim is initially asserted through service of a summons, complaint, or comparable pleading in a judicial or administrative proceeding, the partnership has provided the required amount of security by designating and segregating funds in compliance with the requirements of this subparagraph.

(C) Unless the partnership has satisfied subparagraph (D), each partner of a registered limited liability partnership or foreign limited liability partnership providing engineering services or land surveying services, by virtue of that person's status as a partner, thereby automatically guarantees payment of the difference between the maximum amount of security required for the partnership by this

paragraph and the security otherwise provided in accordance with subparagraphs (A) and (B), provided that the aggregate amount paid by all partners under these guarantees shall not exceed the difference. Neither withdrawal by a partner nor the dissolution and winding up of the partnership shall affect the rights or obligations of a partner arising prior to withdrawal or dissolution and winding up, and the guarantee provided for in this subparagraph shall apply only to conduct that occurred prior to the withdrawal or dissolution and winding up. Nothing contained in this subparagraph shall affect or impair the rights or obligations of the partners among themselves, or the partnership, including, but not limited to, rights of contribution, subrogation, or indemnification.

(D) Confirming, pursuant to the procedure in subdivision (c), that, as of the most recently completed fiscal year of the partnership, it had a net worth equal to or exceeding ten million dollars (\$10,000,000).

(b) For purposes of satisfying the security requirements of this section, a registered limited liability partnership or foreign limited liability partnership may aggregate the security provided by it pursuant to subparagraphs (A), (B), (C), and (D) of paragraph (1) of subdivision (a), subparagraphs (A), (B), (C), and (D) of paragraph (2) of subdivision (a), subparagraphs (A), (B), (C), and (D) of paragraph (3) of subdivision (a), or subparagraphs (A), (B), (C), and (D) of paragraph (4) of subdivision (a), as the case may be. Any registered limited liability partnership or foreign limited liability partnership intending to comply with the alternative security provisions set forth in subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), subparagraph (D) of paragraph (3) of subdivision (a), or subparagraph (D) of paragraph (4) of subdivision (a), shall furnish the following information to the Secretary of State's office, in the manner prescribed in, and accompanied by all information required by, the applicable section:

TRANSMITTAL FORM FOR EVIDENCING
COMPLIANCE
WITH SECTION 16956(a)(1)(D), SECTION
16956(a)(2)(D),
SECTION 16956(a)(3)(D),
OR SECTION 16956(a)(4)(D) OF THE
CALIFORNIA
CORPORATIONS CODE

The undersigned hereby confirms the following:

1. _____
Name of registered or foreign limited liability partnership
2. _____
Jurisdiction where partnership is organized
3. _____
Address of principal office

The registered or foreign limited liability partnership chooses to satisfy the requirements of Section 16956 by confirming, pursuant to Section 16956(a)(1)(D), 16956(a)(2)(D), 16956(a)(3)(D), or 16956(a)(4)(D) and pursuant to Section 16956(c), that, as of the most recently completed fiscal year, the partnership

4. had a net worth equal to or exceeding ten million dollars (\$10,000,000), in the case of a partnership providing accountancy services, fifteen million dollars (\$15,000,000) in the case of a partnership providing legal services, or ten million dollars (\$10,000,000), in the case of a partnership providing architectural services, engineering services, or land surveying services.

5. _____
Title of authorized person executing this form

6. _____
Signature of authorized person executing this form

(c) Pursuant to subparagraph (D) of paragraph (1) of subdivision (a), subparagraph (D) of paragraph (2) of subdivision (a), subparagraph (D) of paragraph (3) of subdivision (a), or subparagraph (D) of paragraph (4) of subdivision (a), a registered limited liability partnership or foreign limited liability partnership may satisfy the requirements of this section by confirming that, as of the last day of its most recently completed fiscal year, it had a net worth equal to or exceeding the amount required. In order to comply with this alternative method of meeting the requirements established in this section, a registered limited liability partnership or foreign limited liability partnership shall file an annual confirmation with the Secretary of State's office, signed by an authorized member of the registered limited liability partnership or foreign limited liability partnership, accompanied by a transmittal form as prescribed by subdivision (b). In order to be current in a given year, the partnership form for confirming compliance with the optional security requirement shall be on file within four months of the completion of the fiscal year and, upon being filed, shall constitute full compliance with the financial security requirements for purposes of this section as of the beginning of the fiscal year. A confirmation filed during any particular fiscal year shall continue to be effective for the first four months of the next succeeding fiscal year.

(d) Neither the existence of the requirements of subdivision (a) nor the extent of the registered limited liability partnership's or foreign limited liability partnership's compliance with the alternative requirements in this section shall be admissible in court or in any way be made known to a jury or other trier of fact in determining an issue of liability for, or to the extent of, the damages in question.

(e) Notwithstanding any other provision of this section, if a registered limited liability partnership or foreign limited liability partnership is otherwise in compliance with the terms of this section at the time that a bankruptcy or other insolvency proceeding is commenced with respect to the registered limited liability partnership or foreign limited liability partnership, it shall be deemed to be in compliance with this section during the pendency of the proceeding. A registered limited liability partnership that has been the subject of a proceeding and that conducts business after the proceeding ends shall

thereafter comply with paragraph (1), (2), (3), or (4) of subdivision (a), in order to obtain the limitations on liability afforded by subdivision (c) of Section 16306.

(f) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

16957. Distributions

(a) No distribution shall be made by a registered limited liability partnership if, after giving effect to the distribution:

(1) The registered limited liability partnership would not be able to pay its debts as they become due in the usual course of business.

(2) The registered limited liability partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the registered limited liability partnership were to be dissolved at the time of the distribution, to satisfy the preferential rights of other partners upon dissolution that are superior to the rights of the partners receiving the distribution.

(b) A cause of action with respect to an obligation to return a distribution is extinguished unless the action is brought within four years after the distribution is made.

(c) A distribution for purposes of this section means the transfer of money or property by a registered limited liability partnership to its partners without consideration.

16958. Foreign Limited Partnerships

(a) (1) The laws of the jurisdiction under which a foreign limited liability partnership is organized shall govern its organization and internal affairs and the liability and authority of its partners, subject to compliance with Section 16956, and (2) a foreign limited liability partnership may not be denied registration by reason of any difference between those laws and the laws of this state.

(b) The name of a foreign limited liability partnership transacting intrastate business in this state shall contain the words "Registered Limited Liability Partnership" or "Limited Liability Partnership" or one of the abbreviations "L.L.P.," "LLP," "R.L.L.P.," or "RLLP," or such other similar words or abbreviations as may be required or authorized by the laws of the jurisdiction of formation of the foreign limited liability partnership, as the last words or letters of its name.

16959. Registration Requirements

(a) (1) Before transacting intrastate business in this state, a foreign limited liability partnership shall comply with all statutory and administrative registration or filing requirements of the state board, commission, or agency that prescribes the rules and regulations governing a particular profession in which the partnership proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code relating to the profession or applicable rules adopted by the governing board. A foreign

limited liability partnership that transacts intrastate business in this state shall within 30 days after the effective date of the act enacting this section or the date on which the foreign limited liability partnership first transacts intrastate business in this state, whichever is later, register with the Secretary of State by submitting to the Secretary of State an application for registration as a foreign limited liability partnership, signed by a person with authority to do so under the laws of the jurisdiction of formation of the foreign limited liability partnership, stating the name of the partnership, the address of its principal office, the name and address of its agent for service of process in this state, a brief statement of the business in which the partnership engages, and any other matters that the partnership determines to include.

(2) Annexed to the application for registration shall be a certificate from an authorized public official of the foreign limited liability partnership's jurisdiction of organization to the effect that the foreign limited liability partnership is in good standing in that jurisdiction, if the laws of that jurisdiction permit the issuance of those certificates, or, in the alternative, a statement by the foreign limited liability partnership that the laws of its jurisdiction of organization do not permit the issuance of those certificates.

(b) The registration shall be accompanied by a fee as set forth in subdivision (b) of Section 12189 of the Government Code.

(c) The Secretary of State shall register as a foreign limited liability partnership any partnership that submits a completed application for registration with the required fee.

(d) The Secretary of State may cancel the filing of the registration if a check or other remittance accepted in payment of the filing fee is not paid upon presentation. Upon receiving written notification that the item presented for payment has not been honored for payment, the Secretary of State shall give a first written notice of the applicability of this section to the agent for service of process or to the person submitting the instrument. Thereafter, if the amount has not been paid by cashier's check or equivalent, the Secretary of State shall give a second written notice of cancellation and the cancellation shall thereupon be effective. The second notice shall be given 20 days or more after the first notice and 90 days or less after the original filing.

(e) A partnership becomes registered as a foreign limited liability partnership at the time of the filing of the initial registration with the Secretary of State or at any later date or time specified in the registration and the payment of the fee required by subdivision (b). A partnership continues to be registered as a foreign limited liability partnership until a notice that it is no longer so registered as a limited liability partnership has been filed pursuant to Section 16960 or, if applicable, once it has been dissolved and finally wound up. The status of a partnership registered as a foreign limited liability partnership and the liability of a partner of that foreign limited liability partnership shall not be adversely affected by errors or subsequent changes in the information stated in an application for registration under subdivision (a) or an amended registration or notice under Section 16960.

(f) The fact that a registration or amended registration pursuant to Section 16960 is on file with the Secretary of State is notice that the partnership is a foreign limited liability partnership and of those other facts contained therein that are required to be set forth in the registration or amended registration.

(g) The Secretary of State shall provide a form for a registration under subdivision (a), which shall include the form for confirming compliance with the optional security requirement pursuant to subdivision (c) of Section 16956. The Secretary of State shall include with instructional materials, provided in conjunction with the form for registration under subdivision (a), a notice that filing the registration will obligate the limited liability partnership to pay an annual tax for that taxable year to the Franchise Tax Board pursuant to Section 17948 of the Revenue and Taxation Code. That notice shall be updated annually to specify the dollar amount of this tax.

(h) A foreign limited liability partnership transacting intrastate business in this state shall not maintain any action, suit, or proceeding in any court of this state until it has registered in this state pursuant to this section.

(i) Any foreign limited liability partnership that transacts intrastate business in this state without registration is subject to a penalty of twenty dollars (\$20) for each day that unauthorized intrastate business is transacted, up to a maximum of ten thousand dollars (\$10,000).

(j) A partner of a foreign limited liability partnership is not liable for the debts or obligations of the foreign limited liability partnership solely by reason of its having transacted business in this state without registration.

(k) A foreign limited liability partnership, transacting business in this state without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

(l) "Transact intrastate business" as used in this section means to repeatedly and successively provide professional limited liability partnership services in this state, other than in interstate or foreign commerce.

(m) Without excluding other activities that may not be considered to be transacting intrastate business, a foreign limited liability partnership shall not be considered to be transacting intrastate business merely because its subsidiary or affiliate transacts intrastate business, or merely because of its status as any one or more of the following:

- (1) A shareholder of a domestic corporation.
- (2) A shareholder of a foreign corporation transacting intrastate business.
- (3) A limited partner of a foreign limited partnership transacting intrastate business.
- (4) A limited partner of a domestic limited partnership.
- (5) A member or manager of a foreign limited liability company transacting intrastate business.

(6) A member or manager of a domestic limited liability company.

(n) Without excluding other activities that may not be considered to be transacting intrastate business, a foreign limited liability partnership shall not be considered to be transacting intrastate business within the meaning of this subdivision solely by reason of carrying on in this state any one or more of the following activities:

(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its partners or carrying on any other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited liability partnership's securities or maintaining trustees or depositories with respect to those securities.

(5) Effecting sales through independent contractors.

(6) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, where those orders require acceptance without this state before becoming binding contracts.

(7) Creating or acquiring evidences of debt or mortgages, liens, or security interest in real or personal property.

(8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.

(9) Conducting an isolated transaction that is completed within 180 days and not in the course of a number of repeated transactions of a like nature.

(o) A person shall not be deemed to be transacting intrastate business in this state merely because of its status as a partner of a registered limited liability partnership or a foreign limited liability company whether or not registered to transact intrastate business in this state.

(p) The Attorney General may bring an action to restrain a foreign limited liability partnership from transacting intrastate business in this state in violation of this chapter.

(q) Nothing in this section is intended to, or shall, augment, diminish, or otherwise alter existing provisions of law, statutes, or court rules relating to services by a California architect, California public accountant, California engineer, California land surveyor, or California attorney in another jurisdiction, or services by an out-of-state architect, out-of-state public accountant, out-of-state engineer, out-of-state land surveyor, or out-of-state attorney in California.

(r) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

16960. Amendment of Registration

(a) The registration of a foreign limited partnership may be amended by an amended registration executed by one or more partners authorized to execute an amended registration and filed with the Secretary of State, as soon as reasonably practical after any information set forth in the registration or previously filed amended registration becomes inaccurate, to add information to the registration or amended registration or to withdraw its registration as a foreign limited liability partnership.

(b) If a foreign limited partnership ceases to be a limited liability partnership, it shall file with the Secretary of State a notice, executed by one or more partners authorized to execute the notice, that it is no longer a foreign limited liability partnership. The notice shall state that a final annual tax return, as described by Section 17948.3 of the Revenue and Taxation Code, has been or will be filed with the Franchise Tax Board, as required under Part 10.2 (commencing with Section 18401) of the Revenue and Taxation Code.

(c) A foreign limited liability partnership that is, but is no longer required to be, registered under Section 16959 may withdraw its registration by filing a notice with the Secretary of State, executed by one or more partners authorized to execute the notice.

(d) The Secretary of State shall provide forms for an amended registration under subdivision (a) and notices under subdivisions (b) and (c).

(e) The filing of amended registration forms pursuant to subdivision (a) and a notice pursuant to subdivision (b) or (c) shall each be accompanied by a fee as set forth in subdivision (d) of Section 12189 of the Government Code.

(f) A notice of cessation, signed pursuant to subdivision (b), shall be filed with the Secretary of State. The Secretary of State shall notify the Franchise Tax Board of the cessation.

16961. Filing Exemptions

The filing of a registration with the Secretary of State under Section 16953 or 16959 shall make it unnecessary for all purposes for the registered limited liability partnership or foreign limited liability partnership to make any of the filings referred to in Chapter 5 (commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code.

16962. Agent for Service of Process

(a) Each registered limited liability partnership whose principal office is not in this state and each foreign limited liability partnership registered under Section 16959 shall designate as its agent for service of process any natural person or a domestic or foreign corporation entitled to be designated as agent for the service of process pursuant to Section 1505.

(b) In addition to service that may be made as provided in Section 416.40 of the Code of Civil Procedure, delivery by hand of a copy of any process against a registered limited

liability partnership or foreign limited liability partnership registered under Section 16959 (1) to any natural person designated by it as agent or (2), if a corporate agent has been designated, to any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of that corporate agent shall constitute valid service on the registered limited liability partnership or foreign limited liability partnership.

(c) If an agent for the purpose of service of process has resigned and has not been replaced or if the agent designated cannot with reasonable diligence be found at the address designated for personally delivering the process, or if no agent has been designated, and it is shown by affidavit to the satisfaction of the court that process against a registered limited liability partnership or foreign limited liability partnership required to be registered under Section 16959 cannot be served with reasonable diligence upon the designated agent by hand in the manner provided in Section 415.10, subdivision (a) of Section 415.20, or subdivision (a) of Section 415.30 of the Code of Civil Procedure or upon the registered limited liability partnership or foreign limited liability partnership in the manner provided in Section 416.40 of the Code of Civil Procedure, the court may make an order that the service be made upon the registered limited liability partnership or foreign limited liability partnership by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing that service. If the court makes that order, the Secretary of State who receives the process, or the person employed in the Secretary of State's office in the capacity of assistant or deputy who receives the process, is required to accept the process. A fee as set forth in subdivision (b) of Section 12197 of the Government Code shall be paid to the Secretary of State for the use of the state upon receipt of the process. Service in this manner shall be deemed complete on the 10th day after delivery of the process to the Secretary of State.

(d) Upon the receipt of the copy of process and the fee therefore, the Secretary of State shall give notice of the service of process to the registered limited liability partnership or foreign limited liability partnership registered under Section 16959 at its principal executive office, by forwarding to that office, by registered mail with request for return receipt, the copy of the process or, if the records of the Secretary of State do not disclose an address for that principal executive office, by forwarding the copy in the same manner to the last designated agent for service of process who has not resigned. If the agent for service of process has resigned and has not been replaced and the records of the Secretary of State do not disclose an address for its principal executive office, no action need be taken by the Secretary of State.

(e) The Secretary of State shall keep a record of all process served upon the Secretary of State under this section and shall record therein the time of service and the Secretary of State's action with reference thereto. The certificate of the Secretary of State, under the Secretary of State's official seal, certifying to the receipt of process, the giving of notice thereof to the registered limited liability partnership or foreign limited liability partnership, and the forwarding of the process pursuant to this section shall be competent and prima facie evidence of the matters stated therein.

(f) The court order pursuant to subdivision (c) that service of process be made upon the registered limited liability partnership or foreign limited liability partnership by delivery to the Secretary of State may be a court order of a court of another state, or of any federal court, if the suit, action, or proceeding has been filed in that court.

FAMILY CODE

DIVISION 17, CHAPTER 2

ARTICLE 2 - COLLECTIONS AND ENFORCEMENT

17520. Non-Compliance with Child Support Order

(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, 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 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.

(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.

(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.

(g) (1) Each local child support agency shall maintain review procedures consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(2) It is the intent of the Legislature that a court or local child support agency, when determining an appropriate payment schedule for arrearages, base its decision on the facts of the particular case and the priority of payment of child support over other debts. The payment schedule shall also recognize that certain expenses may be essential to enable an obligor to be employed. Therefore, in reaching its decision, the court or the local child

support agency shall consider both of these goals in setting a payment schedule for arrearages.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review to the local child support agency who certified the applicant's name. A request for review pursuant to this section shall be resolved in the same manner and timeframe provided for resolution of a complaint pursuant to Section 17800. The local child support agency shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

(1) The applicant is found to be in compliance or negotiates an agreement with the local child support agency for a payment schedule on arrearages or reimbursement.

(2) The applicant has submitted a request for review, but the local child support agency will be unable to complete the review and send notice of its findings to the applicant within the time specified in Section 17800.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within 150 days of the date of service of notice pursuant to subdivision (f). This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the local child support agency's notice of findings.

(4) The applicant has obtained a judicial finding of compliance as defined in this section.

(i) An applicant is required to act with diligence in responding to notices from the board and the local child support agency with the recognition that the temporary license will lapse or the license suspension will go into effect after 150 days and that the local child support agency and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the local child support agency to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

(j) Except as otherwise provided in this section, the local child support agency shall not issue a release if the applicant is not in compliance with the judgment or order for support. The local child support agency shall notify the applicant in writing that the applicant may, by filing an order to show cause or notice of motion, request any or all of the following:

(1) Judicial review of the local child support agency's decision not to issue a release.

(2) A judicial determination of compliance.

(3) A modification of the support judgment or order.

The notice shall also contain the name and address of the court in which the applicant shall file the order to show cause or notice of motion and inform the applicant that his or her name shall remain on the certified list if the applicant does not timely request judicial review. The applicant shall comply with all statutes and rules of court regarding orders to show cause and notices of motion.

Nothing in this section shall be deemed to limit an applicant from filing an order to show cause or notice of motion to modify a support judgment or order or to fix a payment schedule on arrearages accruing under a support judgment or order or to obtain a court finding of compliance with a judgment or order for support.

(k) The request for judicial review of the local child support agency's decision shall state the grounds for which review is requested and judicial review shall be limited to those stated grounds. The court shall hold an evidentiary hearing within 20 calendar days of the filing of the request for review. Judicial review of the local child support agency's decision shall be limited to a determination of each of the following issues:

(1) Whether there is a support judgment, order, or payment schedule on arrearages or reimbursement.

(2) Whether the petitioner is the obligor covered by the support judgment or order.

(3) Whether the support obligor is or is not in compliance with the judgment or order of support.

(4) (A) The extent to which the needs of the obligor, taking into account the obligor's payment history and the current circumstances of both the obligor and the obligee, warrant a conditional release as described in this subdivision.

(B) The request for judicial review shall be served by the applicant upon the local child support agency that submitted the applicant's name on the certified list within seven calendar days of the filing of the petition. The court has the authority to uphold the action, unconditionally release the license, or conditionally release the license.

(C) If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the local child support agency shall immediately send a release in accordance with subdivision (l) to the appropriate board and the applicant. If the judicial review results in a finding by the court that the needs of the obligor warrant a conditional release, the court shall make findings of fact stating the basis for the release and the payment necessary to satisfy the unrestricted issuance or renewal of the license without prejudice to a later judicial determination of the amount of support arrearages, including interest, and shall specify payment terms, compliance with which are necessary to allow the release to remain in effect.

(l) The department shall prescribe release forms for use by local child support agencies. When the obligor is in compliance, the local child support agency shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support. Any board that has received a release from the local child support agency pursuant to this subdivision shall process the release within five business days of its receipt.

If the local child support agency determines subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support, or with the terms of repayment as described in this subdivision, the local child support agency may notify the board, the obligor, and the department in a format prescribed by the department that the obligor is not in compliance.

The department may, when it is economically feasible for the department and the boards to develop an automated process for complying with this subdivision, notify the boards in a manner prescribed by the department, that the obligor is once again not in compliance.

Upon receipt of this notice, the board shall immediately notify the obligor on a form prescribed by the department that the obligor's license will be suspended on a specific date, and this date shall be no longer than 30 days from the date the form is mailed. The obligor shall be further notified that the license will remain suspended until a new release is issued in accordance with subdivision (h). Nothing in this section shall be deemed to limit the obligor from seeking judicial review of suspension pursuant to the procedures described in subdivision (k).

(m) The department may enter into interagency agreements with the state agencies that have responsibility for the administration of boards necessary to implement this section, to the extent that it is cost-effective to implement this section. These agreements shall provide for the receipt by the other state agencies and boards of federal funds to cover that portion of costs allowable in federal law and regulation and incurred by the state agencies and boards in implementing this section. Notwithstanding any other provision of law, revenue generated by a board or state agency shall be used to fund the nonfederal share of costs incurred pursuant to this section. These agreements shall provide that boards shall reimburse the department for the nonfederal share of costs incurred by the department in implementing this section. The boards shall reimburse the department for the nonfederal share of costs incurred pursuant to this section from moneys collected from applicants and licensees.

(n) Notwithstanding any other provision of law, in order for the boards subject to this section to be reimbursed for the costs incurred in administering its provisions, the boards may, with the approval of the appropriate department director, levy on all licensees and applicants a surcharge on any fee or fees collected pursuant to law, or, alternatively, with the approval of the appropriate department director, levy on the applicants or licensees named on a certified list or supplemental list, a special fee.

(o) The process described in subdivision (h) shall constitute the sole administrative remedy for contesting the issuance of a temporary license or the denial or suspension of a license under this section. The procedures specified in the administrative adjudication provisions of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to the denial, suspension, or failure to issue or renew a license or the issuance of a temporary license pursuant to this section.

(p) In furtherance of the public policy of increasing child support enforcement and collections, on or before November 1, 1995, the State Department of Social Services shall make a report to the Legislature and the Governor based on data collected by the boards and the district attorneys in a format prescribed by the State Department of Social Services. The report shall contain all of the following:

- (1) The number of delinquent obligors certified by district attorneys under this section.
- (2) The number of support obligors who also were applicants or licensees subject to this section.

(3) The number of new licenses and renewals that were delayed, temporary licenses issued, and licenses suspended subject to this section and the number of new licenses and renewals granted and licenses reinstated following board receipt of releases as provided by subdivision (h) by May 1, 1995.

(4) The costs incurred in the implementation and enforcement of this section.

(q) Any board receiving an inquiry as to the licensed status of an applicant or licensee who has had a license denied or suspended under this section or has been granted a temporary license under this section shall respond only that the license was denied or suspended or the temporary license was issued pursuant to this section. Information collected pursuant to this section by any state agency, board, or department shall be subject to the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code).

(r) Any rules and regulations issued pursuant to this section by any state agency, board, or department may be adopted as emergency regulations 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). The adoption of these regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare. The regulations shall become effective immediately upon filing with the Secretary of State.

(s) The department and boards, as appropriate, shall adopt regulations necessary to implement this section.

(t) The Judicial Council shall develop the forms necessary to implement this section, except as provided in subdivisions (f) and (l).

(u) The release or other use of information received by a board pursuant to this section, except as authorized by this section, is punishable as a misdemeanor.

(v) The State Board of Equalization shall enter into interagency agreements with the department and the Franchise Tax Board that will require the department and the Franchise Tax Board to maximize the use of information collected by the State Board of Equalization, for child support enforcement purposes, to the extent it is cost-effective and permitted by the Revenue and Taxation Code.

(w) (1) The suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to vehicle impoundment pursuant to Section 14602.6 of the Vehicle Code.

(2) Notwithstanding any other provision of law, the suspension or revocation of any driver's license, including a commercial driver's license, under this section shall not subject the licensee to increased costs for vehicle liability insurance.

(x) If any provision of this section or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this section

which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable.

(y) All rights to administrative and judicial review afforded by this section to an applicant shall also be afforded to a licensee.

GOVERNMENT CODE
CALIFORNIA PUBLIC RECORDS ACT

6250. Legislative Findings

In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state.

6251. California Public Records Act

This chapter shall be known and may be cited as the California Public Records Act.

6252. Definitions

As used in this chapter:

(a) "Local agency" includes a county; city, whether general law or chartered; city and county; school district; municipal corporation; district; political subdivision; or any board, commission or agency thereof; other local public agency; or entities that are legislative bodies of a local agency pursuant to subdivisions (c) and (d) of Section 54952.

(b) "Member of the public" means any person, except a member agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.

(c) "Person" includes any natural person, corporation, partnership, limited liability company, firm, or association.

(d) "Public agency" means any state or local agency.

(e) "Public records" includes any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. "Public records" in the custody of, or maintained by, the Governor's office means any writing prepared on or after January 6, 1975.

(f) "State agency" means every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.

(g) "Writing" means any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.

6252.5. Elected Officials or Officers of State or Local Agencies

Notwithstanding the definition of "member of the public" in Section 6252, an elected member or officer of any state or local agency is entitled to access to public records of that agency on the same basis as any other person. Nothing in this section shall limit the ability of elected members or officers to access public records permitted by law in the administration of their duties.

This section does not constitute a change in, but is declaratory of, existing law.

6253. Accessibility to Records

(a) Public records are open to inspection at all times during the office hours of the state or local agency and every person has a right to inspect any public record, except as hereafter provided. Any reasonably segregable portion of a record shall be available for inspection by any person requesting the record after deletion of the portions that are exempted by law.

(b) Except with respect to public records exempt from disclosure by express provisions of law, each state or local agency, upon a request for a copy of records that reasonably describes an identifiable record or records, shall make the records promptly available to any person upon payment of fees covering direct costs of duplication, or a statutory fee if applicable. Upon request, an exact copy shall be provided unless impracticable to do so.

(c) Each agency, upon a request for a copy of records, shall, within 10 days from receipt of the request, determine whether the request, in whole or in part, seeks copies of disclosable public records in the possession of the agency and shall promptly notify the person making the request of the determination and the reasons therefore. In unusual circumstances, the time limit prescribed in this section may be extended by written notice by the head of the agency or his or her designee to the person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be dispatched. No notice shall specify a date that would result in an extension for more than 14 days. When the agency dispatches the determination, and if the agency determines that the request seeks disclosable public records, the agency shall state the estimated date and time when the records will be made available. As used in this section, "unusual circumstances" means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- (1) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- (2) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- (3) The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein.

(4) The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

(d) Nothing in this chapter shall be construed to permit an agency to delay or obstruct the inspection or copying of public records. The notification of denial of any request for records required by Section 6255 shall set forth the names and titles or positions of each person responsible for the denial.

(e) Except as otherwise prohibited by law, a state or local agency may adopt requirements for itself that allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in this chapter.

6253.1. Agency to Assist Member of the Public

(a) When a member of the public requests to inspect a public record or obtain a copy of a public record, the public agency, in order to assist the member of the public make a focused and effective request that reasonably describes an identifiable record or records, shall do all of the following, to the extent reasonable under the circumstances:

(1) Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.

(2) Describe the information technology and physical location in which the records exist.

(3) Provide suggestions for overcoming any practical basis for denying access to the records or information sought.

(b) The requirements of paragraph (1) of subdivision (a) shall be deemed to have been satisfied if the public agency is unable to identify the requested information after making a reasonable effort to elicit additional clarifying information from the requester that will help identify the record or records.

(c) The requirements of subdivision (a) are in addition to any action required of a public agency by Section 6253.

(d) This section shall not apply to a request for public records if any of the following applies:

(1) The public agency makes available the requested records pursuant to Section 6253.

(2) The public agency determines that the request should be denied and bases that determination solely on an exemption listed in Section 6254.

(3) The public agency makes available an index of its records.

6253.4. Guidelines for Accessibility of Records

(a) Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.

The following state and local bodies shall establish written guidelines for accessibility of records. A copy of these guidelines shall be posted in a conspicuous public place at the offices of these bodies, and a copy of the guidelines shall be available upon request free of charge to any person requesting that body's records:

Department of Motor Vehicles
Department of Consumer Affairs
Department of Transportation
Department of Real Estate
Department of Corrections
Department of the Youth Authority
Department of Justice
Department of Insurance
Department of Corporations
Department of Managed Health Care
Secretary of State
State Air Resources Board
Department of Water Resources
Department of Parks and Recreation
San Francisco Bay Conservation and Development Commission
State Board of Equalization
State Department of Health Care Services
Employment Development Department
State Department of Public Health
State Department of Social Services
State Department of Mental Health
State Department of Developmental Services
State Department of Alcohol and Drug Abuse
Office of Statewide Health Planning and Development
Public Employees' Retirement System
Teachers' Retirement Board
Department of Industrial Relations
Department of General Services
Department of Veterans Affairs
Public Utilities Commission
California Coastal Commission
State Water Resources Control Board
San Francisco Bay Area Rapid Transit District
All regional water quality control boards
Los Angeles County Air Pollution Control District
Bay Area Air Pollution Control District
Golden Gate Bridge, Highway and Transportation District
Department of Toxic Substances Control
Office of Environmental Health Hazard Assessment

(b) Guidelines and regulations adopted pursuant to this section shall be consistent with all other sections of this chapter and shall reflect the intention of the Legislature to make the records accessible to the public. The guidelines and regulations adopted pursuant to this section shall not operate to limit the hours public records are open for inspection as prescribed in Section 6253.

6253.9. Records in Electronic Format

(a) Unless otherwise prohibited by law, any agency that has information that constitutes an identifiable public record not exempt from disclosure pursuant to this chapter that is in an electronic format shall make that information available in an electronic format when requested by any person and, when applicable, shall comply with the following:

(1) The agency shall make the information available in any electronic format in which it holds the information.

(2) Each agency shall provide a copy of an electronic record in the format requested if the requested format is one that has been used by the agency to create copies for its own use or for provision to other agencies. The cost of duplication shall be limited to the direct cost of producing a copy of a record in an electronic format.

(b) Notwithstanding paragraph (2) of subdivision (a), the requester shall bear the cost of producing a copy of the record, including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record when either of the following applies:

(1) In order to comply with the provisions of subdivision (a), the public agency would be required to produce a copy of an electronic record and the record is one that is produced only at otherwise regularly scheduled intervals.

(2) The request would require data compilation, extraction, or programming to produce the record.

(c) Nothing in this section shall be construed to require the public agency to reconstruct a record in an electronic format if the agency no longer has the record available in an electronic format.

(d) If the request is for information in other than electronic format, and the information also is in electronic format, the agency may inform the requester that the information is available in electronic format.

(e) Nothing in this section shall be construed to permit an agency to make information available only in an electronic format.

(f) Nothing in this section shall be construed to require the public agency to release an electronic record in the electronic form in which it is held by the agency if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained.

(g) Nothing in this section shall be construed to permit public access to records held by any agency to which access is otherwise restricted by statute.

6254. Exceptions

Except as provided in Sections 6254.7 and 6254.13, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, if the public interest in withholding those records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810), until the pending litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to any of the following:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of, any state agency referred to in paragraph (1).

(4) Information received in confidence by any state agency referred to in paragraph (1).

(e) Geological and geophysical data, plant production data, and similar information relating to utility systems development, or market or crop reports, that are obtained in confidence from any person.

(f) Records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, the California Emergency Management Agency, and any state or local police agency, or any investigatory or security files compiled by any other state or local police agency, or any investigatory or security files compiled by any other state or local agency for correctional, law enforcement, or licensing purposes. However, state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been

or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime as defined by subdivision (b) of Section 13951, unless the disclosure would endanger the safety of a witness or other person involved in the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation. However, nothing in this division shall require the disclosure of that portion of those investigative files that reflects the analysis or conclusions of the investigating officer.

Customer lists provided to a state or local police agency by an alarm or security company at the request of the agency shall be construed to be records subject to this subdivision.

Notwithstanding any other provision of this subdivision, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

- (1) The full name and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.
- (2) Subject to the restrictions imposed by Section 841.5 of the Penal Code, the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent the information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date, and location of occurrence, the time and date of the report, the name and age of the victim, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property, or weapons involved. The name of a victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined in any of the sections of the Penal Code set forth in this subdivision may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of the crime, or of any crime or incident accompanying the crime, available to the public in compliance with the requirements of this paragraph.

(3) Subject to the restrictions of Section 841.5 of the Penal Code and this subdivision, the current address of every individual arrested by the agency and the current address of the victim of a crime, where the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or that the request is made for investigation purposes by a licensed private investigator as described in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code. However, the address of the victim of any crime defined by Section 220, 236.1, 261, 261.5, 262, 264, 264.1, 265, 266, 266a, 266b, 266c, 266e, 266f, 266j, 267, 269, 273a, 273d, 273.5, 285, 286, 288, 288a, 288.2, 288.3 (as added by Chapter 337 of the Statutes of 2006), 288.3 (as added by Section 6 of Proposition 83 of the November 7, 2006, statewide general election), 288.5, 288.7, 289, 422.6, 422.7, 422.75, 646.9, or 647.6 of the Penal Code shall remain confidential. Address information obtained pursuant to this paragraph may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals, and the requester shall execute a declaration to that effect under penalty of perjury. Nothing in this paragraph shall be construed to prohibit or limit a scholarly, journalistic, political, or government use of address information obtained pursuant to this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of Division 14 of Title 3 of the Education Code.

(h) The contents of real estate appraisals or engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all of the contract agreement obtained. However, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes that is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying the information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on the borrowers.

(k) Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(l) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's Legal Affairs Secretary. However, public records shall not be transferred to the custody of the Governor's Legal Affairs Secretary to evade the disclosure provisions of this chapter.

(m) In the custody of or maintained by the Legislative Counsel, except those records in the public database maintained by the Legislative Counsel that are described in Section 10248.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with the licensing agency to establish his or her personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of the financial data would be competitively injurious to the applicant and the data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application that are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), and Chapter 12 (commencing with Section 3560) of Division 4, that reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or that provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under these chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) (1) Records of state agencies related to activities governed by Article 2.6 (commencing with Section 14081), Article 2.8 (commencing with Section 14087.5), and Article 2.91 (commencing with Section 14089) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, that reveal the special negotiator's deliberative processes, discussions, communications, or any other portion of the negotiations with providers of health care services, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or that provide instruction, advice, or training to employees.

(2) Except for the portion of a contract containing the rates of payment, contracts for inpatient services entered into pursuant to these articles, on or after April 1, 1984, shall be open to inspection one year after they are fully executed. If a contract for inpatient services that is entered into prior to April 1, 1984, is amended on or after April 1, 1984, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after it is fully executed. If the California Medical Assistance Commission enters into contracts with health care providers for other than inpatient hospital services, those contracts shall be open to inspection one year after they are fully executed.

(3) Three years after a contract or amendment is open to inspection under this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendment shall be open to inspection by the Joint Legislative Audit Committee and the Legislative Analyst's Office. The committee and that office shall maintain the confidentiality of the contracts and amendments until the time a contract or amendment is fully open to inspection by the public.

(r) Records of Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects described in Sections 5097.9 and 5097.993 of the Public Resources Code maintained by, or in the possession of, the Native American Heritage Commission, another state agency, or a local agency.

(s) A final accreditation report of the Joint Commission on Accreditation of Hospitals that has been transmitted to the State Department of Health Care Services pursuant to subdivision (b) of Section 1282 of the Health and Safety Code.

(t) Records of a local hospital district, formed pursuant to Division 23 (commencing with Section 32000) of the Health and Safety Code, or the records of a municipal hospital, formed pursuant to Article 7 (commencing with Section 37600) or Article 8 (commencing with Section 37650) of Chapter 5 of Part 2 of Division 3 of Title 4 of this code, that relate to any contract with an insurer or nonprofit hospital service plan for inpatient or outpatient services for alternative rates pursuant to Section 10133 of the Insurance Code. However, the record shall be open to inspection within one year after the contract is fully executed.

(u) (1) Information contained in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department that indicates when or where the applicant is vulnerable to attack or that concerns the applicant's medical or psychological history or that of members of his or her family.

(2) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in applications for licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(3) The home address and telephone number of peace officers, judges, court commissioners, and magistrates that are set forth in licenses to carry firearms issued pursuant to Section 26150, 26155, 26170, or 26215 of the Penal Code by the sheriff of a county or the chief or other head of a municipal police department.

(v) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), and Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is

considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.3 (commencing with Section 12695), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code, on or after July 1, 1991, shall be open to inspection one year after their effective dates.

(B) If a contract that is entered into prior to July 1, 1991, is amended on or after July 1, 1991, the amendment, except for any portion containing the rates of payment, shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (3).

(w) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, and that reveal the deliberative processes, discussions, communications, or any other portion of the negotiations with health plans, or the impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) Except for the portion of a contract that contains the rates of payment, contracts for health coverage entered into pursuant to Chapter 8 (commencing with Section 10700) of Part 2 of Division 2 of the Insurance Code, on or after January 1, 1993, shall be open to inspection one year after they have been fully executed.

(3) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto, until the contracts or amendments to the contracts are open to inspection pursuant to paragraph (2).

(x) Financial data contained in applications for registration, or registration renewal, as a service contractor filed with the Director of Consumer Affairs pursuant to Chapter 20 (commencing with Section 9800) of Division 3 of the Business and Professions Code, for the purpose of establishing the service contractor's net worth, or financial data regarding the funded accounts held in escrow for service contracts held in force in this state by a service contractor.

(y) (1) Records of the Managed Risk Medical Insurance Board related to activities governed by Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, and that reveal any of the following:

(A) The deliberative processes, discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement.

(B) The impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff, or records that provide instructions, advice, or training to employees.

(2) (A) Except for the portion of a contract that contains the rates of payment, contracts entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code, on or after January 1, 1998, shall be open to inspection one year after their effective dates.

(B) If a contract entered into pursuant to Part 6.2 (commencing with Section 12693) or Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the effective date of the amendment.

(3) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(4) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to paragraph (2) or (3).

(5) The exemption from disclosure provided pursuant to this subdivision for the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of the board or its staff shall also apply to the contracts, deliberative processes, discussions, communications, negotiations, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy of applicants pursuant to Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code.

(z) Records obtained pursuant to paragraph (2) of subdivision (f) of Section 2891.1 of the Public Utilities Code.

(aa) A document prepared by or for a state or local agency that assesses its vulnerability to terrorist attack or other criminal acts intended to disrupt the public agency's operations and that is for distribution or consideration in a closed session.

(ab) Critical infrastructure information, as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the California Emergency Management Agency

for use by that office, including the identity of the person who or entity that voluntarily submitted the information. As used in this subdivision, "voluntarily submitted" means submitted in the absence of the office exercising any legal authority to compel access to or submission of critical infrastructure information. This subdivision shall not affect the status of information in the possession of any other state or local governmental agency.

(ac) All information provided to the Secretary of State by a person for the purpose of registration in the Advance Health Care Directive Registry, except that those records shall be released at the request of a health care provider, a public guardian, or the registrant's legal representative.

(ad) The following records of the State Compensation Insurance Fund:

(1) Records related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) Records related to the discussions, communications, or any other portion of the negotiations with entities contracting or seeking to contract with the fund, and any related deliberations.

(3) Records related to the impressions, opinions, recommendations, meeting minutes of meetings or sessions that are lawfully closed to the public, research, work product, theories, or strategy of the fund or its staff, on the development of rates, contracting strategy, underwriting, or competitive strategy pursuant to the powers granted to the fund in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code.

(4) Records obtained to provide workers' compensation insurance under Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, including, but not limited to, any medical claims information, policyholder information provided that nothing in this paragraph shall be interpreted to prevent an insurance agent or broker from obtaining proprietary information or other information authorized by law to be obtained by the agent or broker, and information on rates, pricing, and claims handling received from brokers.

(5) (A) Records that are trade secrets pursuant to Section 6276.44, or Article 11 (commencing with Section 1060) of Chapter 4 of Division 8 of the Evidence Code, including without limitation, instructions, advice, or training provided by the State Compensation Insurance Fund to its board members, officers, and employees regarding the fund's special investigation unit, internal audit unit, and informational security, marketing, rating, pricing, underwriting, claims handling, audits, and collections.

(B) Notwithstanding subparagraph (A), the portions of records containing trade secrets shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(6) (A) Internal audits containing proprietary information and the following records that are related to an internal audit:

(i) Personal papers and correspondence of any person providing assistance to the fund when that person has requested in writing that his or her papers and correspondence be kept private and confidential. Those papers and correspondence shall become public records if the written request is withdrawn, or upon order of the fund.

(ii) Papers, correspondence, memoranda, or any substantive information pertaining to any audit not completed or an internal audit that contains proprietary information.

(B) Notwithstanding subparagraph (A), the portions of records containing proprietary information, or any information specified in subparagraph (A) shall be available for review by the Joint Legislative Audit Committee, the Bureau of State Audits, Division of Workers' Compensation, and the Department of Insurance to ensure compliance with applicable law.

(7) (A) Except as provided in subparagraph (C), contracts entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code shall be open to inspection one year after the contract has been fully executed.

(B) If a contract entered into pursuant to Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code is amended, the amendment shall be open to inspection one year after the amendment has been fully executed.

(C) Three years after a contract or amendment is open to inspection pursuant to this subdivision, the portion of the contract or amendment containing the rates of payment shall be open to inspection.

(D) Notwithstanding any other provision of law, the entire contract or amendments to a contract shall be open to inspection by the Joint Legislative Audit Committee. The committee shall maintain the confidentiality of the contracts and amendments thereto until the contract or amendments to a contract are open to inspection pursuant to this paragraph.

(E) Nothing in this paragraph is intended to apply to documents related to contracts with public entities that are not otherwise expressly confidential as to that public entity.

(F) For purposes of this paragraph, "fully executed" means the point in time when all of the necessary parties to the contract have signed the contract.

Nothing in this section prevents any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

Nothing in this section prevents any health facility from disclosing to a certified bargaining agent relevant financing information pursuant to Section 8 of the National Labor Relations Act (29 U.S.C. Sec. 158).

6254.3. Home Addresses of State Employees

(a) The home addresses and home telephone numbers of state employees and employees of a school district or county office of education shall not be deemed to be public records

and shall not be open to public inspection, except that disclosure of that information may be made as follows:

- (1) To an agent, or a family member of the individual to whom the information pertains.
 - (2) To an officer or employee of another state agency, school district, or county office of education when necessary for the performance of its official duties.
 - (3) To an employee organization pursuant to regulations and decisions of the Public Employment Relations Board, except that the home addresses and home telephone numbers of employees performing law enforcement-related functions shall not be disclosed.
 - (4) To an agent or employee of a health benefit plan providing health services or administering claims for health services to state, school districts, and county office of education employees and their enrolled dependents, for the purpose of providing the health services or administering claims for employees and their enrolled dependents.
- (b) Upon written request of any employee, a state agency, school district, or county office of education shall not disclose the employee's home address or home telephone number pursuant to paragraph (3) of subdivision (a) and an agency shall remove the employee's home address and home telephone number from any mailing list maintained by the agency, except if the list is used exclusively by the agency to contact the employee.

6254.4. Home Addresses

(a) The home address, telephone number, e-mail address, precinct number, or other number specified by the Secretary of State for voter registration purposes, and prior registration information shown on the voter registration card for all registered voters, are confidential and shall not be disclosed to any person, except pursuant to Section 2194 of the Elections Code.

(b) For purposes of this section, "home address" means street address only, and does not include an individual's city or post office address.

(c) The California driver's license number, the California identification card number, the social security number, and any other unique identifier used by the State of California for purposes of voter identification shown on a voter registration card of a registered voter, or added to the voter registration records to comply with the requirements of the Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.), are confidential and shall not be disclosed to any person.

(d) The signature of the voter that is shown on the voter registration card is confidential and shall not be disclosed to any person.

6254.5. Waiver of Exceptions

Notwithstanding any other provisions of the law, whenever a state or local agency discloses a public record which is otherwise exempt from this chapter, to any member of the public, this disclosure shall constitute a waiver of the exemptions specified in Sections 6254,

6254.7, or other similar provisions of law. For purposes of this section, "agency" includes a member, agent, officer, or employee of the agency acting within the scope of his or her membership, agency, office, or employment.

This section, however, shall not apply to disclosures:

(a) Made pursuant to the Information Practices Act (commencing with Section 1798 of the Civil Code) or discovery proceedings.

(b) Made through other legal proceedings or as otherwise required by law.

(c) Within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes.

(d) Not required by law, and prohibited by formal action of an elected legislative body of the local agency which retains the writings.

(e) Made to any governmental agency which agrees to treat the disclosed material as confidential. Only persons authorized in writing by the person in charge of the agency shall be permitted to obtain the information. Any information obtained by the agency shall only be used for purposes which are consistent with existing law.

(f) Of records relating to a financial institution or an affiliate thereof, if the disclosures are made to the financial institution or affiliate by a state agency responsible for the regulation or supervision of the financial institution or affiliate.

g) Of records relating to any person that is subject to the jurisdiction of the Department of Corporations, if the disclosures are made to the person that is the subject of the records for the purpose of corrective action by that person, or if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Corporations.

(h) Made by the Commissioner of Financial Institutions under Section 280, 282, 8009, or 18396 of the Financial Code.

(i) Of records relating to any person that is subject to the jurisdiction of the Department of Managed Health Care, if the disclosures are made to the person that is the subject of the records for the purpose of corrective action by that person, or if a corporation, to an officer, director, or other key personnel of the corporation for the purpose of corrective action, or to any other person to the extent necessary to obtain information from that person for the purpose of an investigation by the Department of Managed Health Care.

6254.8. Employment Contracts

Every employment contract between a state or local agency and any public official or public employee is a public record which is not subject to the provisions of Sections 6254 and 6255.

6254.9. Computer Software

(a) Computer software developed by a state or local agency is not itself a public record under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use.

(b) As used in this section, "computer software" includes computer mapping systems, computer programs, and computer graphics systems.

(c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to this section.

(d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.

(e) Nothing in this section is intended to limit any copyright protections.

6254.20. Electronically Collected Personal Information

Nothing in this chapter shall be construed to require the disclosure of records that relate to electronically collected personal information, as defined by Section 11015.5, received, collected, or compiled by a state agency.

6254.21. Government Official's Personal Information

(a) No state or local agency shall post the home address or telephone number of any elected or appointed official on the Internet without first obtaining the written permission of that individual.

(b) No person shall knowingly post the home address or telephone number of any elected or appointed official, or of the official's residing spouse or child, on the Internet knowing that person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur or threatening to cause imminent great bodily harm to that individual. A violation of this subdivision is a misdemeanor. A violation of this subdivision that leads to the bodily injury of the official, or his or her residing spouse or child, is a misdemeanor or a felony.

(c) (1) (A) No person, business, or association shall publicly post or publicly display on the Internet the home address or telephone number of any elected or appointed official if that official has made a written demand of that person, business, or association to not disclose his or her home address or telephone number.

(B) A written demand made under this paragraph by a state constitutional officer, a mayor, or a Member of the Legislature, a city council, or a board of supervisors shall include a statement describing a threat or fear for the safety of that official or of any person residing at the official's home address.

(C) A written demand made under this paragraph by an elected official shall be effective for four years, regardless of whether or not the official's term has expired prior to the end of the four-year period.

(D) (i) A person, business, or association that receives the written demand of an elected or appointed official pursuant to this paragraph shall remove the official's home address or telephone number from public display on the Internet, including information provided to cellular telephone applications, within 48 hours of delivery of the written demand, and shall continue to ensure that this information is not reposted on the same Internet Web site, subsidiary site, or any other Internet Web site maintained by the recipient of the written demand.

(ii) After receiving the elected or appointed official's written demand, the person, business, or association shall not transfer the appointed or elected official's home address or telephone number to any other person, business, or association through any other medium.

(iii) Clause (ii) shall not be deemed to prohibit a telephone corporation, as defined in Section 234 of the Public Utilities Code, or its affiliate, from transferring the elected or appointed official's home address or telephone number to any person, business, or association, if the transfer is authorized by federal or state law, regulation, order, or tariff, or necessary in the event of an emergency, or to collect a debt owed by the elected or appointed official to the telephone corporation or its affiliate.

(E) For purposes of this paragraph, "publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

(2) An official whose home address or telephone number is made public as a result of a violation of paragraph (1) may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a court finds that a violation has occurred, it may grant injunctive or declarative relief and shall award the official court costs and reasonable attorney's fees. A fine not exceeding one thousand dollars (\$1,000) may be imposed for a violation of the court's order for an injunction or declarative relief obtained pursuant to this paragraph.

(3) An elected or appointed official may designate in writing the official's employer, a related governmental entity, or any voluntary professional association of similar officials to act, on behalf of that official, as that official's agent with regard to making a written demand pursuant to this section. A written demand made by an agent pursuant to this paragraph shall include a statement describing a threat or fear for the safety of that official or of any person residing at the official's home address.

(d) (1) No person, business, or association shall solicit, sell, or trade on the Internet the home address or telephone number of an elected or appointed official with the intent to cause imminent great bodily harm to the official or to any person residing at the official's home address.

(2) Notwithstanding any other law, an official whose home address or telephone number is solicited, sold, or traded in violation of paragraph (1) may bring an action in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it shall award

damages to that official in an amount up to a maximum of three times the actual damages but in no case less than four thousand dollars (\$4,000).

(e) An interactive computer service or access software provider, as defined in Section 230(f) of Title 47 of the United States Code, shall not be liable under this section unless the service or provider intends to abet or cause imminent great bodily harm that is likely to occur or threatens to cause imminent great bodily harm to an elected or appointed official.

(f) For purposes of this section, "elected or appointed official" includes, but is not limited to, all of the following:

- (1) State constitutional officers.
- (2) Members of the Legislature.
- (3) Judges and court commissioners.
- (4) District attorneys.
- (5) Public defenders.
- (6) Members of a city council.
- (7) Members of a board of supervisors.
- (8) Appointees of the Governor.
- (9) Appointees of the Legislature.
- (10) Mayors.
- (11) City attorneys.
- (12) Police chiefs and sheriffs.
- (13) A public safety official, as defined in Section 6254.24.
- (14) State administrative law judges.
- (15) Federal judges and federal defenders.
- (16) Members of the United States Congress and appointees of the President.

(g) Nothing in this section is intended to preclude punishment instead under Sections 69, 76, or 422 of the Penal Code, or any other provision of law.

6254.25. Pending Litigation

Nothing in this chapter or any other provision of law shall require the disclosure of a memorandum submitted to a state body or to the legislative body of a local agency by its legal counsel pursuant to subdivision (q) of Section 11126 or Section 54956.9 until the pending litigation has been finally adjudicated or otherwise settled. The memorandum shall be protected by the attorney work-product privilege until the pending litigation has been finally adjudicated or otherwise settled.

6255. General Exception

(a) The agency shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of this chapter or that on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.

(b) A response to a written request for inspection or copies of public records that includes a determination that the request is denied, in whole or in part, shall be in writing.

6257.5. Limitations

This chapter does not allow limitations on access to a public record based upon the purpose for which the record is being requested, if the record is otherwise subject to disclosure.

6258. Injunctive Relief

Any person may institute proceedings for injunctive or declarative relief or writ of mandate in any court of competent jurisdiction to enforce his or her right to inspect or to receive a copy of any public record or class of public records under this chapter. The times for responsive pleadings and for hearings in these proceedings shall be set by the judge of the court with the object of securing a decision as to these matters at the earliest possible time.

6259. Court Proceedings

(a) Whenever it is made to appear by verified petition to the superior court of the county where the records or some part thereof are situated that certain public records are being improperly withheld from a member of the public, the court shall order the officer or person charged with withholding the records to disclose the public record or show cause why he or she should not do so. The court shall decide the case after examining the record in camera, if permitted by subdivision (b) of Section 915 of the Evidence Code, papers filed by the parties and any oral argument and additional evidence as the court may allow.

(b) If the court finds that the public official's decision to refuse disclosure is not justified under Section 6254 or 6255, he or she shall order the public official to make the record public. If the judge determines that the public official was justified in refusing to make the record public, he or she shall return the item to the public official without disclosing its content with an order supporting the decision refusing disclosure.

(c) In an action filed on or after January 1, 1991, an order of the court, either directing disclosure by a public official or supporting the decision of the public official refusing disclosure, is not a final judgment or order within the meaning of Section 904.1 of the Code of Civil Procedure from which an appeal may be taken, but shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ. Upon entry of any order pursuant to this section, a party shall, in order to obtain review of the order, file a petition within 20 days after service upon him or her of a written notice of entry of the order, or within such further time not exceeding an additional 20 days as the trial court may for good cause allow. If the notice is served by mail, the period within which to file the petition shall be increased by five days. A stay of an order or judgment shall not be granted unless the petitioning party demonstrates it will otherwise sustain irreparable damage and probable success on the merits. Any person who fails to obey the order of the court shall be cited to show cause why he or she is not in contempt of court.

(d) The court shall award court costs and reasonable attorney fees to the plaintiff should the plaintiff prevail in litigation filed pursuant to this section. The costs and fees shall be paid by the public agency of which the public official is a member or employee and shall not become a personal liability of the public official. If the court finds that the plaintiff's case is

clearly frivolous, it shall award court costs and reasonable attorney fees to the public agency.

6260. Effect on Judicial Records

The provisions of this chapter shall not be deemed in any manner to affect the status of judicial records as it existed immediately prior to the effective date of this section, nor to affect the rights of litigants, including parties to administrative proceedings, under the laws of discovery of this state, nor to limit or impair any rights of discovery in a criminal case.

6261. Expenditure

Notwithstanding Section 6252, an itemized statement of the total expenditures and disbursement of any agency provided for in Article VI of the California Constitution shall be open for inspection.

6262. Access to Records by District Attorneys

The exemption of records of complaints to, or investigations conducted by, any state or local agency for licensing purposes under subdivision (f) of Section 6254 shall not apply when a request for inspection of such records is made by a district attorney.

6263. Inspection and Copies

A state or local agency shall allow an inspection or copying of any public record or class of public records not exempted by this chapter when requested by a district attorney.

6264. Petition to Inspect

The district attorney may petition a court of competent jurisdiction to require a state or local agency to allow him to inspect or receive a copy of any public record or class of public records not exempted by this chapter when the agency fails or refuses to allow inspection or copying within 10 working days of a request. The court may require a public agency to permit inspection or copying by the district attorney unless the public interest or good cause in withholding such records clearly outweighs the public interest in disclosure.

6265. Status Not Changed By Disclosure

Disclosure of records to a district attorney under the provisions of this chapter shall effect no change in the status of the records under any other provision of law.

GOVERNMENT CODE

BAGLEY-KEENE OPEN MEETING ACT

11120. Legislative Intent

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

11121. "State Body" Defined

As used in this article, "state body" means each of the following:

- (a) Every state board, or commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.
- (b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.
- (c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.
- (d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

11121.1. "State Body" Exclusions

As used in this article, "state body" does not include any of the following:

- (a) State agencies provided for in Article VI of the California Constitution.
- (b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

11121.9. Act Provided to Members

Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

11121.95. Appointed Official – Duties Not Yet Assumed

Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

11122. “Action Taken” Defined

As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

11122.5. “Meeting” Defined

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b) (1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) The prohibitions of this article do not apply to any of the following:

- (1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).
- (2) (A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body.
(B) Subparagraph (A) does not allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.
- (3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.
- (4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.
- (5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.
- (6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.

11123. Open and Public Meetings Required

- (a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.
- (b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:
 - (A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.
 - (B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.
 - (C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the

state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(c) The state body shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

11123.1. Americans With Disabilities

All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

11124. No Requirements for Attendance

No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

11124.1. Right to Record

(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

11125. Notice of Meeting

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

11125.1. Agendas and Supporting Documentation

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by the Franchise Tax Board staff or individual members to members of the state body prior to or during a meeting shall be:

- (1) Made available for public inspection at that meeting.
- (2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.
- (3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

- (1) Made available for public inspection at that meeting.
- (2) Distributed to all persons who request or have requested copies of these writings.
- (3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

11125.2. Closed Sessions; Action Reported

Any state body shall report publicly at a subsequent public meeting any action taken, and any roll call vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body.

11125.3. Items Not on the Agenda

(a) Notwithstanding Section 11125, a state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below: (1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

11125.4. Special Meeting

(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes when compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or when immediate action is required to protect the public interest:

- (1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.
- (2) To consider proposed legislation.
- (3) To consider issuance of a legal opinion.
- (4) To consider disciplinary action involving a state officer or employee.
- (5) To consider the purchase, sale, exchange, or lease of real property.
- (6) To consider license examinations and applications.
- (7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.
- (8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.
- (9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public

interest. The finding shall be adopted by a two-thirds vote of the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

11125.5. Emergency Meetings

(a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, "emergency situation" means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

- (1) Work stoppage or other activity that severely impairs public health or safety, or both.
- (2) Crippling disaster that severely impairs public health or safety, or both.

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the roll call vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

11125.7. Opportunity for Public to Address State Body

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice

for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public if no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on particular issues and for each individual speaker.

(c) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(d) This section is not applicable to closed sessions held pursuant to Section 11126.

(e) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(f) This section is not applicable to hearings conducted by the California Victim Compensation and Government Claims Board pursuant to Sections 13963 and 13963.1.

(g) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the commission before or during the commission's consideration of the item.

11126. Closed Sessions.

(a) (1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for

holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law. (4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7) (A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 9 (commencing with Section 60850) of, Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For purposes of

consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session (17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18) (A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d) (1) Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e) (1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B) (i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C) (i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council, or other body appointed to advise the Secretary of Emergency Management or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief

executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

11126.1. Closed Sessions: Minutes

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

11126.3. Closed Session: Legal Authority

(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article, any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing

settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

11126.5. Disorderly Conduct

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

11126.7. Fees May Not be Charged

No fees may be charged by a state body for providing a notice required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

11127. Exceptions

Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

11128. Time of Closed Sessions

Each closed session of a state body shall be held only during a regular or special meeting of the body.

11128.5. Adjourned to a Specific Time and Place

The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

11129. Continuance of Hearings

Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

11130. Injunction

(a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to audio record its closed sessions as hereinafter provided.

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c) (1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

- (i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.
- (ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

11130.3. Judicial Determination

(a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

- (1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.
- (2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.
- (3) The action taken was in substantial compliance with Sections 11123 and 11125.
- (4) The action taken was in connection with the collection of any tax.

11130.5. Court Costs; Attorney's Fees

A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

11130.7. Attendance of Meeting in Violation

Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under this article, is guilty of a misdemeanor.

11131. Meeting Place; Nondiscriminatory

No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry or any characteristic listed or defined in Section 11135, or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

11131.5. Identity of Crime Victim

No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the identity of the person has been publicly disclosed.

11132. Authorization Required

Except as expressly authorized by this article, no closed session may be held by any state body.

GOVERNMENT CODE

ADMINISTRATIVE REGULATIONS AND RULEMAKING

11343. Public Display of New Regulations on the Internet

Every state agency shall:

(a) Transmit to the office for filing with the Secretary of State a certified copy of every regulation adopted or amended by it except one that is a building standard.

(b) Transmit to the office for filing with the Secretary of State a certified copy of every order of repeal of a regulation required to be filed under subdivision (a).

(c) (1) Within 15 days of the office filing a state agency's regulation with the Secretary of State, post the regulation on its Internet Web site in an easily marked and identifiable location. The state agency shall keep the regulation on its Internet Web site for at least six months from the date the regulation is filed with the Secretary of State.

(2) Within five days of posting, the state agency shall send to the office the Internet Web site link of each regulation that the agency posts on its Internet Web site pursuant to paragraph (1).

(3) This subdivision shall not apply to a state agency that does not maintain an Internet Web site.

(d) Deliver to the office, at the time of transmittal for filing a regulation or order of repeal, six duplicate copies of the regulation or order of repeal, together with a citation of the authority pursuant to which it or any part thereof was adopted.

(e) Deliver to the office a copy of the notice of proposed action required by Section 11346.4.

(f) Transmit to the California Building Standards Commission for approval a certified copy of every regulation, or order of repeal of a regulation, that is a building standard, together with a citation of authority pursuant to which it or any part thereof was adopted, a copy of the notice of proposed action required by Section 11346.4, and any other records prescribed by the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code).

(g) Whenever a certification is required by this section, it shall be made by the head of the state agency that is adopting, amending, or repealing the regulation, or by a designee of the agency head, and the certification and delegation shall be in writing.

11343.4. Regulations Become Effective on a Quarterly Basis

(a) Except as otherwise provided in subdivision (b), a regulation or an order of repeal required to be filed with the Secretary of State shall become effective on a quarterly basis as follows:

- (1) January 1 if the regulation or order of repeal is filed on September 1 to November 30, inclusive.
- (2) April 1 if the regulation or order of repeal is filed on December 1 to February 29, inclusive.
- (3) July 1 if the regulation or order of repeal is filed on March 1 to May 31, inclusive.
- (4) October 1 if the regulation or order of repeal is filed on June 1 to August 31, inclusive.

(b) The effective dates in subdivision (a) shall not apply in all of the following:

- (1) The effective date is specifically provided by the statute pursuant to which the regulation or order of repeal was adopted, in which event it becomes effective on the day prescribed by the statute.
- (2) A later date is prescribed by the state agency in a written instrument filed with, or as part of, the regulation or order of repeal.
- (3) The agency makes a written request to the office demonstrating good cause for an earlier effective date, in which case the office may prescribe an earlier date.
- (4) (A) A regulation adopted by the Fish and Game Commission pursuant to Article 1 (commencing with Section 200) of Chapter 2 of Division 1 of the Fish and Game Code.
(B) A regulation adopted by the Fish and Game Commission that requires a different effective date in order to conform to a federal regulation.

11344. California Code of Regulations

The office shall do all of the following:

(a) Provide for the official compilation, printing, and publication of adoption, amendment, or repeal of regulations, which shall be known as the California Code of Regulations. On and after July 1, 1998, the office shall make available on the Internet, free of charge, the full text of the California Code of Regulations, and may contract with another state agency or a private entity in order to provide this service.

(b) Make available on its Internet Web site a list of, and a link to the full text of, each regulation filed with the Secretary of State that is pending effectiveness pursuant to Section 11343.4.

(c) Provide for the compilation, printing, and publication of weekly updates of the California Code of Regulations. This publication shall be known as the California Code of Regulations Supplement and shall contain amendments to the code.

(d) Provide for the publication dates and manner and form in which regulations shall be printed and distributed and ensure that regulations are available in printed form at the earliest practicable date after filing with the Secretary of State.

(e) Ensure that each regulation is printed together with a reference to the statutory authority pursuant to which it was enacted and the specific statute or other provision of law which the regulation is implementing, interpreting, or making specific.

11346.3. Public Participation: Procedure for Adoption of Regulations

(a) A state agency proposing to adopt, amend, or repeal any administrative regulation shall assess the potential for adverse economic impact on California business enterprises and individuals, avoiding the imposition of unnecessary or unreasonable regulations or reporting, recordkeeping, or compliance requirements. For purposes of this subdivision, assessing the potential for adverse economic impact shall require agencies, when proposing to adopt, amend, or repeal a regulation, to adhere to the following requirements, to the extent that these requirements do not conflict with other state or federal laws:

(1) The proposed adoption, amendment, or repeal of a regulation shall be based on adequate information concerning the need for, and consequences of, proposed governmental action.

(2) The state agency, prior to submitting a proposal to adopt, amend, or repeal a regulation to the office, shall consider the proposal's impact on business, with consideration of industries affected including the ability of California businesses to compete with businesses in other states. For purposes of evaluating the impact on the ability of California businesses to compete with businesses in other states, an agency shall consider, but not be limited to, information supplied by interested parties.

(3) An economic impact assessment prepared pursuant to this subdivision for a proposed regulation that is not a major regulation or that is a major regulation proposed prior to November 1, 2013, shall be prepared in accordance with subdivision (b), and shall be included in the initial statement of reasons as required by Section 11346.2. An economic assessment prepared pursuant to this subdivision for a major regulation proposed on or after November 1, 2013, shall be prepared in accordance with subdivision (c), and shall be included in the initial statement of reasons as required by Section 11346.2.

(b) (1) A state agency proposing to adopt, amend, or repeal a regulation that is not a major regulation or that is a major regulation proposed prior to November 1, 2013, shall prepare an economic impact assessment that assesses whether and to what extent it will affect the following:

(A) The creation or elimination of jobs within the state.

(B) The creation of new businesses or the elimination of existing businesses within the state.

(C) The expansion of businesses currently doing business within the state.

(D) The benefits of the regulation to the health and welfare of California residents, worker safety, and the state's environment.

(2) This subdivision does not apply to the University of California, the Hastings College of the Law, or the Fair Political Practices Commission.

(3) Information required from a state agency for the purpose of completing the assessment may come from existing state publications.

(c) (1) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, shall prepare a standardized regulatory impact analysis in the manner prescribed by the Department of Finance pursuant to Section 11346.36. The standardized regulatory impact analysis shall address all of the following:

(A) The creation or elimination of jobs within the state.

(B) The creation of new businesses or the elimination of existing businesses within the state.

(C) The competitive advantages or disadvantages for businesses currently doing business within the state.

(D) The increase or decrease of investment in the state.

(E) The incentives for innovation in products, materials, or processes.

(F) The benefits of the regulations, including, but not limited to, benefits to the health, safety, and welfare of California residents, worker safety, and the state's environment and quality of life, among any other benefits identified by the agency.

(2) This subdivision shall not apply to the University of California, the Hastings College of the Law, or the Fair Political Practices Commission.

(3) Information required from state agencies for the purpose of completing the analysis may be derived from existing state, federal, or academic publications.

(d) Any administrative regulation adopted on or after January 1, 1993, that requires a report shall not apply to businesses, unless the state agency adopting the regulation makes a finding that it is necessary for the health, safety, or welfare of the people of the state that the regulation apply to businesses.

(e) Analyses conducted pursuant to this section are intended to provide agencies and the public with tools to determine whether the regulatory proposal is an efficient and effective means of implementing the policy decisions enacted in statute or by other provisions of law in the least burdensome manner. Regulatory impact analyses shall inform the agencies and the public of the economic consequences of regulatory choices, not reassess statutory policy. The baseline for the regulatory analysis shall be the most cost-effective set of regulatory measures that are equally effective in achieving the purpose of the regulation in a manner that ensures full compliance with the authorizing statute or other law being implemented or made specific by the proposed regulation.

(f) Each state agency proposing to adopt, amend, or repeal a major regulation on or after November 1, 2013, and that has prepared a standardized regulatory impact analysis pursuant to subdivision (c), shall submit that analysis to the Department of Finance upon

completion. The department shall comment, within 30 days of receiving that analysis, on the extent to which the analysis adheres to the regulations adopted pursuant to Section 11346.36. Upon receiving the comments from the department, the agency may update its analysis to reflect any comments received from the department and shall summarize the comments and the response of the agency along with a statement of the results of the updated analysis for the statement required by paragraph (10) of subdivision (a) of Section 11346.5.

GOVERNMENT CODE

MISCELLANEOUS PROVISIONS

11019.9. State Agency Privacy Policy

Each state department and state agency shall enact and maintain a permanent privacy policy, in adherence with the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code), that includes, but is not limited to, the following principles:

- (a) Personally identifiable information is only obtained through lawful means.
- (b) The purposes for which personally identifiable data are collected are specified at or prior to the time of collection, and any subsequent use is limited to the fulfillment of purposes not inconsistent with those purposes previously specified.
- (c) Personal data shall not be disclosed, made available, or otherwise used for purposes other than those specified, except with the consent of the subject of the data, or as authorized by law or regulation.
- (d) Personal data collected must be relevant to the purpose for which it is collected.
- (e) The general means by which personal data is protected against loss, unauthorized access, use modification or disclosure shall be posted, unless that disclosure of general means would compromise legitimate state department or state agency objectives or law enforcement purposes.
- (f) Each state department or state agency shall designate a position within the department or agency, the duties of which shall include, but not be limited to, responsibility for the privacy policy within that department or agency.

11425.60. Precedential Decisions

(a) A decision may not be expressly relied on as precedent unless it is designated as a precedent decision by the agency.

(b) An agency may designate as a precedent decision a decision or part of a decision that contains a significant legal or policy determination of general application that is likely to recur. Designation of a decision or part of a decision as a precedent decision is not rulemaking and need not be done under Chapter 3.5 (commencing with Section 11340). An agency's designation of a decision or part of a decision, or failure to designate a decision or part of a decision, as a precedent decision is not subject to judicial review.

(c) An agency shall maintain an index of significant legal and policy determinations made in precedent decisions. The index shall be updated not less frequently than annually, unless no precedent decision has been designated since the last preceding update. The index shall be made available to the public by subscription, and its availability shall be publicized annually in the California Regulatory Notice Register.

(d) This section applies to decisions issued on or after July 1, 1997. Nothing in this section precludes an agency from designating and indexing as a precedent decision a decision issued before July 1, 1997.

11564.5. Per Diem Salary

Notwithstanding any other provision of law, whenever a member of a board, commission, committee, or similarly constituted body created by executive order or statute, is authorized to receive a per diem salary or allowance in excess of expenses incurred by the member, that rate shall be established at one hundred dollars (\$100) per day unless a higher rate is provided by statute. This section shall not apply to those boards or commissions provided an annual salary in this chapter, nor to the board specified in Section 1150 of the Harbors and Navigation Code.

12019.5. Internet Website

(a) The Director of the Governor's Office of Business and Economic Development shall ensure that the office's Internet Web site contains information on the licensing, permitting, and registration requirements of state agencies, and shall include, but not be limited to, information that does all of the following:

(1) Assists individuals with identifying the type of applications, forms, or other similar documents an applicant may need.

(2) Provides a digital copy of all state licensing, permitting, and registration applications, forms, or other similar documents where made available for download. If a direct link to a digital copy cannot be provided, the digital copy shall be posted and made easily accessible for download on the Internet Web site.

(3) Instructs individuals on how and where to submit applications, forms, or other similar documents.

(b) The Governor shall ensure that the Internet Web site is user friendly and provides accurate, updated information.

(c) (1) Each state agency that the Governor determines has licensing authority shall provide accurate updated information about its licensing requirements.

(2) A state agency shall not use the Internet Web site established under this section as the exclusive source of information for the public to access licensing requirements for that agency.

(d) The Governor, or his or her designee, may impose a reasonable fee, not to exceed the actual cost to provide the service, as a condition of accessing information on the Internet Web site established under subdivision (a).

12410.5. State Auditing

(a) The Controller shall receive every audit report prepared for any local agency, as defined in Section 53890, in compliance with the federal Single Audit Act of 1984 (31 U.S.C. Sec. 7501 et seq.) and required under any law to be submitted to any state agency, and shall,

after ascertaining its compliance with that federal act, transmit the report to the designated state agency.

(b) The audit report shall be submitted to the Controller within nine months after the end of the period audited or pursuant to applicable federal or state law.

(c) An audit report for any local agency submitted to the Controller pursuant to this section shall comply with the Government Auditing Standards issued by the Comptroller General of the United States.

(d) If a local agency does not submit the audit report required by this section to the Controller by the due date established in subdivision (b) of this section, the Controller may appoint a qualified certified public accountant or public accountant to complete the report and to obtain the information required. Any cost incurred by the Controller pursuant to this subdivision, including a contract with, or the employment of, the certified public accountant or public accountant, in completing the audit shall be borne by the local agency and shall be a charge against any unencumbered funds of the local agency.

(e) Before appointing a certified public accountant or public accountant pursuant to subdivision (d), the Controller shall first notify a local agency of its failure to submit the audit report and give the local agency a reasonable amount of time to submit the report.

(f) The Controller shall refer any matters of unprofessional conduct, as defined in Section 5100 of the Business and Professions Code, and multiple and repeated failures to disclose noncompliant acts to the California Board of Accountancy.

12410.6. Audit Restrictions

(a) An audit for any local agency, including those submitted to the Controller pursuant to subdivision (a) of Section 12410.5, shall be made by a certified public accountant or public accountant, licensed by, and in good standing with, the California Board of Accountancy.

(b) Commencing with the 2013–14 fiscal year, a local agency shall not employ a public accounting firm to provide audit services to a local agency if the lead audit partner or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local agency for six consecutive fiscal years. For purposes of calculating the six consecutive fiscal years, the local agency shall not take into account any time that a public accounting firm was employed by that local agency prior to the 2013–14 fiscal year. The Controller may waive this requirement if he or she finds that another eligible public accounting firm is not available to perform the audit.

12944. Licensing Examinations – Adverse Impact

(a) It shall be unlawful for a licensing board to require any examination or establish any other qualification for licensing that has an adverse impact on any class by virtue of its race, creed, color, national origin or ancestry, sex, gender, gender identity, gender

expression, age, medical condition, genetic information, physical disability, mental disability, or sexual orientation, unless the practice can be demonstrated to be job related.

Where the commission, after hearing, determines that an examination is unlawful under this subdivision, the licensing board may continue to use and rely on the examination until such time as judicial review by the superior court of the determination is exhausted.

If an examination or other qualification for licensing is determined to be unlawful under this section, that determination shall not void, limit, repeal, or otherwise affect any right, privilege, status, or responsibility previously conferred upon any person by the examination or by a license issued in reliance on the examination or qualification.

(b) It shall be unlawful for a licensing board to fail or refuse to make reasonable accommodation to an individual's mental or physical disability or medical condition.

(c) It shall be unlawful for any licensing board, unless specifically acting in accordance with federal equal employment opportunity guidelines or regulations approved by the commission, to print or circulate or cause to be printed or circulated any publication, or to make any non-job-related inquiry, either verbal or through use of an application form, which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, sex, gender, gender identity, gender expression, age, or sexual orientation or any intent to make any such limitation, specification, or discrimination. Nothing in this subdivision shall prohibit any licensing board from making, in connection with prospective licensure or certification, an inquiry as to, or a request for information regarding, the physical fitness of applicants if that inquiry or request for information is directly related and pertinent to the license or the licensed position the applicant is applying for. Nothing in this subdivision shall prohibit any licensing board, in connection with prospective examinations, licensure, or certification, from inviting individuals with physical or mental disabilities to request reasonable accommodations or from making inquiries related to reasonable accommodations.

(d) It is unlawful for a licensing board to discriminate against any person because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(e) It is unlawful for any licensing board to fail to keep records of applications for licensing or certification for a period of two years following the date of receipt of the applications.

(f) As used in this section, "licensing board" means any state board, agency, or authority in the State and Consumer Services Agency that has the authority to grant licenses or certificates which are prerequisites to employment eligibility or professional status.

26509. Records Released to District Attorneys

(a) Notwithstanding any other provision of law, including any provision making records confidential, and including Title 1.8 (commencing with Section 1798) of Part 4 of Division 3

of the Civil Code, the district attorney shall be given access to, and may make copies of, any complaint against a person subject to regulation by a consumer-oriented state agency and any investigation of the person made by the agency, where that person is being investigated by the district attorney regarding possible consumer fraud.

(b) Where the district attorney does not take action with respect to the complaint or investigation, the material shall remain confidential.

(c) Where the release of the material would jeopardize an investigation or other duties of a consumer-oriented state agency, the agency shall have discretion to delay the release of the information.

(d) As used in this section, a consumer-oriented state agency is any state agency that regulates the licensure, certification, or qualification of persons to practice a profession or business within the state, where the regulation is for the protection of consumers who deal with the professionals or businesses. It includes, but is not limited to, all of the following:

- (1) The Dental Board of California.
- (2) The Medical Board of California.
- (3) The State Board of Optometry.
- (4) The California State Board of Pharmacy.
- (5) The Veterinary Medical Board.
- (6) The California Board of Accountancy.
- (7) The California Architects Board.
- (8) The State Board of Barbering and Cosmetology.
- (9) The Board for Professional Engineers and Land Surveyors.
- (10) The Contractors' State License Board.
- (11) The Funeral Directors and Embalmers Program.
- (12) The Structural Pest Control Board.
- (13) The Bureau of Home Furnishings and Thermal Insulation.
- (14) The Board of Registered Nursing.
- (15) The State Board of Chiropractic Examiners.
- (16) The Board of Behavioral Science Examiners.
- (17) The State Athletic Commission.
- (18) The Cemetery Program.
- (19) The State Board of Guide Dogs for the Blind.
- (20) The Bureau of Security and Investigative Services.
- (21) The Court Reporters Board of California.
- (22) The Board of Vocational Nursing and Psychiatric Technicians of the State of California.
- (23) The Osteopathic Medical Board of California.
- (24) The Division of Investigation.
- (25) The Bureau of Automotive Repair.
- (26) The State Board for Geologists and Geophysicists.
- (27) The Department of Alcoholic Beverage Control.
- (28) The Department of Insurance.

- (29) The Public Utilities Commission.
- (30) The State Department of Health Services.
- (31) The New Motor Vehicle Board.