

CAARR, Breining and CAADAC (CBC) draft legislation to license and certify alcoholism and drug abuse counselors

May 20, 2010

Add Division 10.5 of the Health and Safety Code, to read:

CHAPTER 1. GENERAL PROVISIONS

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

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

(a) "Registrant" means an uncertified or unlicensed person who is in the course of completing the requirements for certification or licensure under this part, and who is registered with a CPTO.

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

(c) "Intern" means a certified person who has completed the educational requirements for licensure and is registered with a CPTO for the purposes of documenting his or her experiential hours to apply for licensure.

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

(e) "Independent counseling practice" means an individual or individuals who are licensed pursuant to terms of this Part to engage in the practice of alcohol and drug counseling, as defined in section 11975.75, in a setting outside of a licensed facility or certified program. Every licensee who operates an independent counseling practice shall

refer any client assessed as needing the services of another licensed professional.

(f) "Clinical supervision" means the ongoing process in which the supervisor participates with one or more supervisees to ensure high quality service delivery across domains of counselor development, professional and ethical standards, program development, quality assurance, performance evaluation, and administration, as described in the TAP 21

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

(h) (1) "Counselor Preparation and Testing Organization," or "CPTO" means a "certifying organization" as that term is defined and used in Chapter 4 of Division 8 of Title 9 of the California Code of Regulations, including compliance with standards and terms of accreditation by the ICE (Institute for Credentialing Excellence)

(2) Each CPTO shall do all of the following:

(A) Maintain a business office in California;

(B) Be accredited with the ICE by April 1, 2007 and shall continuously maintain such accreditation

(C) Provide written documentation from the ICE that the ICE has determined that the CPTO complies with the requirements of this Chapter; and

(D) Comply with the requirements of this Chapter.

(i) "Institution of higher learning" means an entity accredited by the Western Association of Schools and Colleges or an equivalent regional accrediting agency approved by the United States Department of Education, or compliant with the requirements of the State of California Bureau for Private Postsecondary and Vocational Education (BPPVE) and/or its successor agency, the Bureau for Private Postsecondary Education, pursuant to the California Private Postsecondary Education Act of 2009 (Chapter 310, signed by Governor on October 11, 2009, effective January 1, 2010).

(j) "Tap 21" means the publication published by the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment entitled, "Addiction Counseling Competencies," Technical Assistance Publication Series No. 21, 2006, and as it may be updated.

(k) The “ICE” means the Institute for Credentialing Excellence (formerly the National Organization for Competency Assurance) which is a national organization that provides government and employers services that allow them to confirm the validity and reliability of a private certifying body.

(l) The “Department” means the Department of Alcohol and Drug Programs.

11975.17(a). There is within the department a seven member Advisory Committee on AOD Counselor Training, Certification and Licensing. The advisory committee shall meet a minimum of four times per year in order to review and issue recommendations to the department on the following issues: the department’s implementation of this Act; counselor education and examination issues; code of conduct and ethics issues; disciplinary actions; counselor performance; reciprocity provisions with other states; and other pertinent issues related to counselor training, certification and licensing as the Committee may decide. The department shall provide support to the Advisory Committee from within its existing resources. At least once every two years the Advisory Committee shall issue a report to the department and the Legislature regarding its findings and recommendations. The Committee may create sub-committees to address issues. Committee members shall select a Chairperson each year, but no person shall be selected for more than two consecutive years.

(b) The seven-member Advisory Committee shall be comprised of the following:

1. Except for the public member, initial appointment and continued service on this Advisory Committee is contingent upon the member being and remaining certified or licensed pursuant to this Act.

2. Five members, one of which shall be a public member, who is not required to be but may be certified or licensed under this Act, shall be appointed by the Governor.

3. One member shall be appointed by the Speaker of the Assembly.

4. One member shall be appointed by the Senate Rules Committee.

(c) The Director may appoint not more than three non-voting, ex-officio members, who may include a representative of the Little Hoover Commission, the department, the Assembly Select Committee on Alcohol and Drug Abuse, or other persons who are knowledgeable in the field of alcohol and other drug abuse treatment.

(d) The Director of the Board of Behavioral Science shall serve as a non-voting, ex-officio member.

(e) All Committee members shall serve at the pleasure of the appointing authority for terms of four years. No committee member shall serve more than two consecutive terms. Committee members shall not be compensated but shall be reimbursed by the Department for necessary expenses.

11975.18. The duties of the committee shall include the following:

- (a) Recommend to the director the adoption of regulations establishing a Code of Conduct consistent with generally accepted ethics codes.
- (b) Periodically review the efficacy of the complaint process established by the department pursuant to this chapter.
- (c) Review and provide comments on agreements proposed by the director to implement this Chapter.
- (d) Provide recommendations to the director on all matters pertaining to this chapter.

11975.19. (a) Upon receipt of a recommendation from the committee, the director shall do one of the following within 30 working days:

- (1) Initiate the rulemaking process to adopt the recommendation of the committee.
- (2) Decline to initiate the rulemaking process and provide the committee with a written statement of reasons for the decision.
- (3) Request that the committee provide additional information regarding the recommendation.
- (4) Indicate to the committee that consultation with agency or agencies may be required before responding to the committee's recommendation.

(b) All regulations adopted pursuant to this chapter shall be adopted in compliance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), and may be subsequently repealed or amended as provided for in that act.

CHAPTER 2. ADMINISTRATION

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

(b) The department may enter into an agreement with any governmental agency or other entity, public or private, to administer any portion of this part with consultation from the advisory committee and following a public hearing.

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

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

(b) Issue licenses, certificates, and registrations beginning January 1, 2013, to those who meet the qualifications of this part and any regulations promulgated pursuant to this part.

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

(d) Adopt regulations no later than January 1, 2013 for the receipt, investigation, and resolution of complaints of registrants, and certified and licensed counselors.

(e)(1) Require registrants to register with a CPTO, including those persons presently registered pursuant to regulations adopted by the department, so that they have an opportunity for, certification and licensure under this part with appropriate credit for the education, training, and experience obtained prior to the department's implementation of this part; and

(2) adopt regulations requiring CPTOs to maintain adequate documentation regarding each registrant to ensure that applicable provisions of this Part are satisfied.

(f) Maintain a database of certified and licensed counselors and registrants, including the individual's status, any public record of discipline, and other information as the department may require. The department shall also maintain on its website a current listing of all counselors and registrants against whom disciplinary action has been taken, including the specific disciplinary action ordered. Each CPTO shall maintain a database that includes the status of registrants that is current within seven days.

(g) On or before January 1, 2012, conduct an initial review of each CPTO and make a determination as to whether each CPTO has met the qualifications of this Part to be recognized by the Department for the purposes of preparing and testing applicants.

(h) Inspect each CPTO every 2 years to ensure compliance with applicable requirements

and regulations including continuing compliance with the terms and standards by which the CPTO was accredited by the ICE. The findings of these inspections shall be made available to the public in a timely manner.

(1) The department may inspect, at any time, with or without providing prior notice, any CPTO to ensure compliance.

(2) Each CPTO shall comply with all aspects of state regulations and with the terms of their ICE approval.

(3) The department shall take disciplinary action against CPTOs, as appropriate, including reprimand or probation, issuing an order to take corrective action, suspension or revocation of the CPTO's status, imposition of administrative fines not to exceed \$10,000, or any combination of these for failing to comply with the terms of this Section.

(4) If the department suspends or revokes the status of any CPTO, it shall determine appropriate means for registrants of that CPTO to transfer progress toward meeting the education and work experience requirements of this Part, as appropriate, to another CPTO.

(i) Create a process by which a CPTO would be required to submit a summary of each applicant's qualifications (cover) to the Department. The Department may also establish a requirement that a CPTO must provide all documentation concerning the applicant's qualifications (portfolio) in a timely fashion when requested by the Department. The Department may also establish by regulation the recordkeeping requirements for portfolios.

(1) Not later than January 1, 2012, the department shall adopt regulations to implement this subdivision.

(j) Require all registrants to obtain a minimum of 30 hours of education per year working toward certification in AOD treatment, and to obtain 315 hours of education specified in 11975.35 in not more than 5 years in order that they meet the education requirements for CAODCs. A CPTO shall not renew the registration of a registrant who has been registered for more than 5 years unless the CPTO determines that unusual or extenuating hardships exist for the individual to complete the requirements within 5 years. If a CPTO makes this determination regarding the individual, then the CPTO may grant the individual up to an additional three years to complete all certification requirements and shall notify the department of this decision.

CHAPTER 3: REGISTRANTS

11975.30. (a) Commencing January 1, 2012, the department shall issue a Registered Alcohol and Other Drug Counselor (RAODC) registration to each person who meets all of the following requirements:

(1) Completes the application for registration with a CPTO.

(2) Within 30 days of employment, has completed an alcohol and other drug abuse orientation class approved by a CPTO that includes instruction as follows:

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

(B) At least eight hours of education in the screening and referral processes.

(3) Has signed a CPTO's Code of Ethics.

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

(5) Pays the required fees as stipulated in this Part .

(b) A registrant may provide support services to certified or licensed counselors, but may not carry a caseload, or perform group or individual counseling in an unsupervised environment.

(c) Before a registrant may begin obtaining work experience for certification or licensure, he or she must be registered with a CPTO and the Department.

(d) A registrant shall renew every two years and with a CPTO at least once every two years.

(e) The CPTO shall be responsible for notifying the department regarding each applicant's completion of the requirements specified in subdivision (a).

CHAPTER 4. CERTIFICATION

11975.33. (a) The department shall certify, at the appropriate level specified in Section 11975.36 or 11975.42, as applicable, each person who the department determines was certified as a counselor on December 31, 2011, in accordance with regulations of the department in effect on that date. Thereafter, each certified counselor shall renew his or her certification every 2 years according to terms of existing law regarding renewals.

(b) The department shall not issue a certification pursuant to this section unless a

complete application is received by December 31, 2014.

11975.35. Commencing January 1, 2012 , upon receiving documentation from a CPTO that a person has met the requirements specified in subdivisions (a) and (b), and receiving documentation from a person that he or she has met the requirements specified in subdivisions (c) (d) and (e), the department shall issue a Certified Alcohol and Other Drug Counselor (CAODC) certificate to each person who meets all of the requirements of this section.

(a) (1) Completes the education requirements of, passes the examination given by, and has completed all other requirements of a CPTO including work experience requirements.

(A) Education requirements must include a minimum of 315 classroom hours and 160 hours of a supervised practicum.

(B)The examination given by a CPTO must be psychometrically validated to this level of education and to examine the person's knowledge of the materials described in 11975.45(a); or

(2) Possesses an earned Associate of Arts, Associate of Science in alcohol and drug counseling, or other major or an equivalent degree recognized by a CPTO from an institution of higher learning, completes 160 hours of a supervised practicum, and passes the examination given by a CPTO.

(b) Completes 2,080 hours of work experience as specified in Section 11975.60. This work experience must be gained within six years of the application for certification.

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

(d) Pays the required fees as specified in Section 11977.15.

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

(f) The CPTO shall be responsible for notifying the department, in a manner the department may specify, of pertinent information regarding each applicant's completion of the requirements specified in subdivisions (a) and (b). The individual applying to the department for certification is responsible for meeting the requirements imposed by subdivisions (c) (d) and (e) and for payment of fees. Upon receiving all of the required

information and payment of fees, the department may contact the CPTO to elicit additional information regarding any particular application for certification, for cause. Not more than 30 business days following the date on which the department receives all required documentation including payment of fees, the department shall issue the certification unless a finding is made that a particular application for certification should be delayed or denied pursuant to due process provisions of this part.

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

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

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

(c) Completes the application for a certificate.

CHAPTER 5. LICENSURE

11975.40. Commencing January 1, 2012 , the department shall issue an Licensed Alcohol and Other Drug Counselor (LAODC) license to a person who meets all of the following requirements:

(a) Possesses an earned master of arts, master of science, or doctorate degree in alcohol and drug counseling, psychology, social work, marriage, family and child counseling, marital and family therapy or other clinically focused major or an equivalent degree recognized by a CPTO from an institution of higher learning and meets the requirements of a certified counselor pursuant to section 11975.35.

(b) Completes all of the following:

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

(2) Completes 60 hours of education on operating an independent counseling practice, including both of the following:

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

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

(c) Passes the test specified in Section 11975.50.

(d) Completes a supervised practicum required by the institution of higher learning that awarded the applicant his or her degree.

(e) Completes 3,120 hours of work experience as specified in Section 11975.60 which hours shall be inclusive of the hours spent in the practicum specified in (d) and the 2,080 work experience hours specified in Section 11975.35.

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

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

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

(i) Completes the education requirement specified in Section 11975.45 (a) (2).

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

(a) Possesses an earned master of arts, master of science, or doctorate degree in alcohol and drug counseling, psychology, social work, marriage, family and child counseling, marital and family therapy or other clinically focused major or an equivalent degree from an institution of higher learning that is recognized by a CPTO, holds a valid advanced certification from a CPTO, and who has completed all of the following:

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

(2) Sixty hours of education on operating an independent counseling practice,

including both of the following:

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

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

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

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

(C) Completes the application for a license.

(4) For the purpose of this subsection, an "advanced certification" issued by a CPTO shall include the following minimum requirements:

(A) Three hundred fifteen (315) hours of formal instruction in alcoholism and drug abuse counseling; and,

(B) Six thousand (6,000) hours of clinical experience as an alcoholism and drug abuse counselor.

(b) (1) Passed a test prior to January 1, 2012 that is recognized by a CPTO and is sufficient to verify the skill and knowledge determined by an applicable Job Task Analysis.

(2) Completes a course of education as specified in Section 11975.45 that includes at least 315 hours of classroom instruction in alcoholism and drug abuse counseling, including, but not limited to, a 45-hour classroom practicum course offered by a provider approved by the CPTO.

(3) Has completed 10,000 hours of work experience as a certified counselor and as approved by a CPTO prior to the date the application for licensure was filed, and is currently certified as a counselor by a CPTO;

(4) Completes at least 255 hours of fieldwork in a clinically supervised practicum approved by a CPTO.

(5) Completes at least six hours of education in supervision techniques.

(6) Completes at least six hours of education in the subject of law and ethics as it relates to a licensee's ability to practice alcoholism and drug abuse counseling safely. This

education may include, but shall not be limited to, education in the legal and regulatory aspects of chemical dependency treatment, regulatory restrictions, confidentiality, issues surrounding clients' rights, and standards of competency for the practice of alcoholism and drug abuse counseling.

(7) Completes at least 10 hours of education in the recognition of co-occurring disorders, referral processes, and the evaluation of clients using placement criteria, such as the ASAM Patient Placement Criteria, to determine the most appropriate level of care for a client and a client's eligibility for admission to a particular alcoholism and drug abuse treatment program.

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

- (a) The curriculum shall include, at a minimum, all of the following:
 - (1) For all counselors, TAP 21.
 - (2) For counselors at the LAODC level, the TAP 21.

11975.50. A CPTO shall develop or recognize a test or tests provided for in this part. Any test(s) recognized by a CPTO shall meet, at a minimum, all of the following criteria:

- (a) Sufficient to examine and verify the appropriate level of skills and knowledge determined by the TAP 21 and the Job Task Analysis created specifically for the level intended (either certified or licensed levels).
- (b) Psychometrically validated to cover the curriculum, skills and knowledge specified pursuant to this part including the competencies addressed by the publication specified in 11975.45 (a) (1) for CAODCs, and for that material and the material addressed by the publication specified in 11975.45 (a) (2) for LAODCs.
- (c) Administered at a frequency and under conditions providing reasonable access and security.
- (d) Maintained in accordance with industry standards, i.e., JTA's revalidated every 5 years, cut score validation annually to maintain validity, annual question bank maintenance.
- (e) Each CPTO shall protect, to the best of the CPTO's ability, the integrity of the testing instrument(s) it utilizes and shall maintain a plan of action to respond to a compromised test. A CPTO shall report test compromises to the Department with the documented incident and plan of action within 5 working days of discovering a compromising incident.

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

(a) Except for the work experience provisions specified in 11975.42 (f), no hours of experience may be gained more than six years prior to the date the application for registration, certification, or licensure, as applicable, was filed, except as specifically provided in this part, unless a CPTO makes a determination regarding an individual for whom a hardship exists, in which case the CPTO may allow up to 2 additional years to gain the work experience.

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

(c) Clinical supervision gained during hours of work experience shall include at least one hour of direct supervisor contact with a registrant or certified counselor that takes place during counseling periods in each 40 hour period for which work experience is credited. For purposes of this section “one hour of direct supervisor contact” means one hour of face-to-face contact on an individual basis during a counseling period, or two hours face-to-face contact during a counseling period that includes not more than three registrants or certified counselor

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

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

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

(e) Experience hours for certification may be supervised by a certified counselor who has 10,000 hours of experience and is approved by a CPTO for supervising registrants in a facility licensed or certified by the Department.

(f) 2,080 hours of work experience credited toward licensure may be acquired in a setting that is supervised by a certified counselor. The remaining 1,040 experience hours for licensure specified in section 11975.40 shall be gained under the clinical supervision of a LAODC, or licensed professional who is: a physician licensed by the Medical Board of California; psychologist licensed by the Board of Psychology; a clinical social worker or marriage and family therapist licensed by the California Board of Behavioral Sciences; or another licensed mental health professional specified by the department by regulation. Before beginning the remaining 1,040 hours of work experience for licensure, a candidate must register as an Intern with a CPTO.

(g) Supervisors who do not hold an LAODC must complete the supervision requirements of a CPTO which must include the subject matter covered by the publication specified in section 11975.45 (a) (2). CPTOs must require at least five years experience in AODA treatment for supervisors who are otherwise licensed.

(h) Experience hours shall be gained in each of the core functions in ratios required by the CPTO. Such ratios must reflect the hours typically experienced by counselors

currently working in the field.

(i) The department may limit, by regulation, the number of registrants that any one clinical supervisor may supervise and may limit the number of registrants or certified counselors that may be supervised in any given program or setting.

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

(k) All persons shall register with the department or be certified by the department in order to be credited for the work experience necessary for licensure or certification.

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

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

(a) A person who engages in the practice of alcohol and drug counseling exclusively as an employee or volunteer of an agency of the United States government.

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

(c) A cleric or other religious leader who provides spiritual advice and guidance to members of his or her congregation or order, or to other persons, if it is free of charge.

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

(e) A person who is providing alcoholism and drug abuse counseling services while practicing a profession licensed by the State of California under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), the Psychology Licensing Act (Chapter 6.6 (commencing with Section 2900)), the Marriage and Family Therapist Act (Chapter 13 (commencing with Section 4980)), or the Clinical Social Worker Practice Act (Chapter

14 (commencing with Section 4991)) of Division 2 of the Business and Professions Code.

11975.75. (a) An individual licensed, registered, or certified under this part may engage in the practice of alcohol and other drug abuse counseling. Alcohol and other drug abuse counseling is the application of counseling approaches and methods derived from alcohol and drug theory and research, for the purpose of treating alcohol and drug abuse problems, the practice of which conforms to the practitioner's level of training, education, and experience.

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

(c) For purposes of the part, "alcohol and other drug abuse counseling" means performing any of the following services for the purpose of treating alcoholism and drug abuse:

(1) Screening. The process by which a client is determined to be eligible for admission to a particular alcoholism and drug abuse treatment program.

(2) Initial intake. The administrative and initial assessment procedures for admission to an alcoholism and drug abuse treatment program. Assessment shall not include psychological testing intended to measure or diagnose mental illness.

(3) Orientation. Describing to the client the general nature and goals of the alcoholism and drug abuse treatment program, including rules governing client conduct and infractions that can lead to disciplinary action or discharge from the program.

(4) Alcoholism and drug abuse counseling, including individual, group, and significant others. The utilization of special skills to assist individuals, families, or groups in achieving objectives through exploration of a problem and its ramifications, examination of attitudes and feelings, considerations of alternative solutions and decision making as each relates to substance abuse. Counseling shall be limited to assisting a client in learning more about himself or herself for the purposes of understanding how to effectuate clearly perceived, realistically defined goals related to abstinence. Counseling is limited to assisting the client to learn or acquire new skills that will enable the client to cope and adjust to life situations without the use of substances.

(5) Case management. Activities that bring services, agencies, resources, or individuals together within a planned framework of action toward achievement of established goals.

It may involve liaison activities and collateral contacts.

(6) Crisis intervention. Those services that respond to an alcohol or drug abuser's needs during acute emotional or physical distress, including, but not limited to, referrals for assessment of the client's need for additional psychological or medical treatment for client behaviors that signal risk or prolonged distress.

(7) Assessment. Those procedures by which a counselor or program identifies and evaluates an individual's strengths, weaknesses, problems, and needs for the development of the alcoholism and drug abuse treatment plan.

(8) Treatment planning. The process by which the counselor and the client identify and rank problems needing resolution, establish agreed-upon immediate and long-term goals, and decide on a treatment process and the resources to be utilized.

(9) Client education. Providing information to individuals and groups concerning alcohol and other drugs of abuse and the services and resources available.

(10) Referral. Identifying the needs of the client that cannot be met by the counselor or agency, as well as assisting the client in utilizing the support systems and community resources available.

(11) Reports and recordkeeping. Documenting the client's progress in achieving the client's goals.

(12) Consultation with other professionals with regard to client treatment or services. Communicating with other professionals to ensure comprehensive, quality care for the client.

(d) A licensee, certified counselor or registrant may perform the acts listed in this section only for the purpose of treating alcoholism and drug abuse.

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

11975.85. A person who has received a certificate, registration, or license under this part may use the title "Certified Alcohol and Other Drug Counselor" or "CAODC," "Registered Alcohol and Other Drug Counselor" or "RAODC," or "Licensed Alcohol and Other Drug Counselor" or "LAODC," in accordance with the type of certificate, registration, or license possessed. Every person who styles himself or herself or who holds himself or herself out to be a Certified Alcohol and Other Drug Counselor, Registered Alcohol and Other Drug Counselor, or Licensed Alcohol and Other Drug Counselor without holding a license or certification in good standing under this part, is guilty of a misdemeanor.

11975.90. It is unlawful for a person to engage in the practice of alcohol and other drug counseling unless at the time of so doing the person holds a valid, unexpired, and unrevoked certificate, registration, or license under this part. It is unlawful to engage in the unsupervised practice of alcohol and other drug abuse counseling outside of a facility exempted by this Act or licensed or certified by the Department, unless at the time of doing so, a person holds a valid, unexpired, and unrevoked license under this part. This section shall become operative on January 1, 2013.

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

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

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

(c) Unlawfully administering to himself or herself any controlled substance as defined in Section 4021 of the Business and Professions Code, or using any of the dangerous drugs or devices specified in Section 4022 of the Business and Professions Code or using any alcoholic beverage to the extent, or in a manner, as to be dangerous or injurious to the person applying for a license, certification, or registration, or holding a license, certification, or registration under this part, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a license, certification, or registration, to conduct with safety to the public the counseling authorized by this part. The department may deny an application for a license,

certification, or registration, or may revoke the license, certification, or registration of any person who unlawfully uses or offers to use a controlled substance as defined in Section 4021 of the Business and Professions Code, a dangerous drug or device specified in Section 4022 of the Business and Professions Code, or alcohol in the course of performing alcohol and other drug counseling. This provision does not apply to any person also licensed as a physician and surgeon under Chapter 5 (commencing with Section 2000) of the Business and Professions Code or the Osteopathic Act who lawfully prescribes drugs to a patient under his or her care.

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

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

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

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

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

(i) Intentionally or recklessly causing physical or emotional harm to any client or verbally, physically or sexually harassing, threatening, or abusing any participant, patient, resident, their family members, other persons who are significant to them, or other staff members.

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

(k) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of an alcohol and other drug

counselor.

(l) Engaging in a social or business relationship with clients, program participants, patients, or residents or other persons significant to them while they are in treatment and exploiting former clients, program participants, patients, or residents.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11976.25. (a) A person who has applied for or received a license, certification or

registration-from the department under this part has the right to appeal an adverse decision of the department with regard to his or her application, license, certificate, or registration.

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

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

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

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

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

(b) Each CPTO shall require any person applying for registration with the CPTO to submit fingerprints and shall conduct a criminal history background check that does not require direct submission to the Department of Justice.

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

(1) The department shall submit to the Department of Justice fingerprint images and related information required by the Department of Justice of all alcohol and other drug counselor licensure or certification, applicants, as defined by Section 11975.25, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions and state or federal arrests and also information as to the existence

and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.

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

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

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

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

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

(d) Before issuing a certification or license, the department shall ensure that the state and federal level criminal history of the applicant is reviewed.

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

(1) Has been convicted of five or more serious felonies as defined in Section 1192.7 (c) of the Penal Code 48-month period ending two years or less prior to the date of the department's determination.

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

(3)(A) Subject to subparagraphs (b) and (c), has been convicted of a violent felony, as defined in Section 667.5 of the Penal Code, within three years prior to the date of the department's determination

(B) After the expiration of three years from the date of conviction, if a person described in subparagraph (A) is on parole, he or she may be certified, or licensed, conditioned

upon the written approval of his or her parole officer or the Board of Parole Hearings, as the Board of Parole Hearings may provide. Withdrawal of the approval of the parole officer or the Board of Parole Hearings may be made upon terms as the Board of Parole Hearings may provide, on written notice to the counselor or parolee and to the department. In the event of withdrawal of the approval, the counselor's or parolee's certification, or licensure shall be revoked by the department upon receipt by the department of the notice of withdrawal of approval, without further recourse against the department. The withdrawal of approval shall be subject to review by the Board of Parole Hearings upon terms as the Board of Parole Hearings may provide. If the approval is reinstated, the department shall reinstate the counselor or parolee if he or she is otherwise eligible for reinstatement under this part and complies with all applicable requirements.

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

(f) The department may establish by regulation additional criteria to implement subdivision (d), which may include, standards, exemptions, and terms of rehabilitation, and may include rebuttable presumptions with regard to any of those.

(g) The department shall, following consultation with the advisory committee, adopt regulations allowing an individual who has a certificate or licenses suspended or revoked pursuant to this section to appeal the decision to the Director of the Department. The regulations shall clearly state the responsibility of the appellant and the requirements of the director to render a decision in a timely fashion.

(h) This section shall become operative on July 1, 2011.

11976.50. (a) Licenses or certifications issued under this part shall expire within two years after the issue date.

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

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

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

(3) Complete at least 30 hours per year of continuing education, including at least 3 hours each year on ethics and the code of conduct.

(4) Notify the department whether he or she has been convicted, as defined in subdivision (a) of Section 11975.95 of a misdemeanor or felony, or whether any disciplinary action has been taken by any regulatory or licensing board in this or any other

state, subsequent to the licensee's last renewal.

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

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

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

(3) Pay all delinquency fees.

(4) Complete the applicable continuing education requirements.

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

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

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

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

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

11976.80. A licensed or certified alcohol and other drug counselor may apply to the department to request that his or her license or certification be placed on inactive status. A person who holds an inactive license or certification shall pay a biennial fee of one-half of the active renewal fee and shall be exempt from continuing education requirements specified in paragraph (3) of subdivision (b) of Section 11976.50, but shall otherwise be subject to this part and shall not engage in the practice of alcohol and other drug counseling in this state. A counselor on inactive status who has not committed any acts or crimes constituting grounds for denial of licensure or certification may, upon his or her request, have his or her license or certification to practice alcohol other and drug

counseling placed on active status. A person requesting his or her license or certification to be placed on active status at any time during a renewal cycle shall pay a pro rata portion of the renewal fees. A person requesting to reactivate from an inactive status whose license or certification will expire less than one year from the date of the request shall be required to complete 20 hours of continuing education for license renewal. A person requesting to reactivate from an inactive status whose license or certification will expire more than one year from the date of the request shall be required to complete 40 hours of continuing education for license or certification renewal.

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

(a) Provide written notice to the CPTO and department within 30 days of any change of his or her residential or work address.

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

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

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

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

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

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

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

action:

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

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

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

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

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

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

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

(2) Passes a current applicable examination.

(3) Pays the required fees.

(4) Passes the required background check.

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

CHAPTER 4-6. FISCAL PROVISIONS

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

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

- (1) The fee for issuance of an initial registration shall be no more than five dollars (\$5).
- (2) The fee for renewal of a registration shall be no more than five dollars (\$5).
- (3) The fee for issuance of an initial certification shall be no more than fifteen dollars (\$15).
- (4) The fee for renewal of a certification shall be no more than fifteen dollars (\$15).
- (5) The fee for issuance of an initial license shall be no more than one hundred twenty-five dollars (\$25).
- (6) The fee for a license renewal shall be no more than twenty-five dollars (\$25).
- (7) The fee for an inactive license or certification renewal shall be no more than (\$25).
- (8) The renewal delinquency fee shall be no more than twenty-five dollars (\$25). A person who permits his or her license or certification to expire is subject to the delinquency fee.
- (9) The fee for issuance of a replacement registration, license, or certificate shall be no more than twenty dollars (\$20).
- (10) The fee for issuance of a certificate or letter of good standing shall be no more than twenty-five dollars (\$25).
- (11) The fee for department review of the criminal records information shall be no more than thirty dollars (\$30).
- (12) The fee for the state level criminal offender record information search shall be set by the Department of Justice and the fee for the federal level criminal offender record information search shall be set by the Federal Bureau of Investigation.

(b) The department shall assess each CPTO quarterly for the applications presented during the previous quarter. CPTOs must provide payment for registrants, certified counselors and licensees within ninety days of receipt of an assessment.

(c) The Department shall assess each CPTO \$5,000 every two years for the purposes of reviewing CPTOs and enforcing regulations related to CPTO compliance.

(d) The Department may, commencing January 1, 2012 and ending December 31, 2012, assess each CPTO \$25 for each individual who registers with, is certified by, or applies for licensure through the CPTO between January 1, 2012 and December 31, 2012 for the purposes of implementing this Act. This assessment shall be collected only once.

(e) This subdivision shall not establish or limit the fees charged for education or

application preparation/submission.

Section 11165.7 of the Penal Code is amended to read:

11165.7. (a) As used in this article, "mandated reporter" is defined as any of the following:

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by any public or private school.
- (4) A classified employee of any public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- (6) An administrator of a public or private day camp.

- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.
- (9) Any employee of a county office of education or the State Department of Education, whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A Head Start program teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.
- (17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.
- (18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
- (20) A firefighter, except for volunteer firefighters.
- (21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist,

chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

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

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

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

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

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

(27) A coroner.

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

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

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

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

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

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

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

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

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

(35) An employee or volunteer of a Court Appointed Special Advocate program, as

defined in Rule 1424 of the California Rules of Court.

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

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

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

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

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

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

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

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

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

15630. (a) Any person who has assumed full or intermittent responsibility for the care or custody of an elder or dependent adult, whether or not he or she receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter. An alcohol and other drug counselor or supervisor licensed, certified, or registered pursuant

to Part 4 (commencing with Section 11975.10) of Division 10.5 of the Health and Safety Code is also a mandated reporter.

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

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

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

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

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

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

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

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

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

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

and Elder Abuse.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of Mental Health or the State Department of Developmental Services or to a local law enforcement agency or to the local ombudsperson. Except in an emergency, the local ombudsperson and the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

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

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

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

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

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

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

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

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

(h) Failure to report, or impeding or inhibiting a report of, physical abuse, as defined in Section 15610.63 -, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully

fails to report, or impedes or inhibits a report of, physical abuse, as defined in Section 15610., abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment. If a mandated reporter intentionally conceals his or her failure to report an incident known by the mandated reporter to be abuse or severe neglect under this section, the failure to report is a continuing offense until a law enforcement agency specified in paragraph (1) of subdivision (b) of Section discovers the offense.

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