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AB-1706 Healing arts: chiropractic practice: speech-language pathology and audiology and hearing aid dispensing: occupational therapy: physical therapy. (2017-2018)

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Assembly Bill No. 1706

CHAPTER 454

An act to amend Sections 146, 1000, 2531, 2531.75, 2533.1, 2533.4, 2534, 2538.10, 2538.28, 2538.29, 2538.30, 2538.34, 2538.35, 2538.38, 2570.18, 2570.19, 2602, 2607.5, 2653, 2682, 2688, and 2689 of, to amend and renumber Section 2538.19 of, to amend and repeal Section 2648.7 of, and to repeal Section 2688.5 of, the Business and Professions Code, relating to healing arts.

[Approved by Governor October 03, 2017. Filed with Secretary of State October 03, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1706, Committee on Business and Professions. Healing arts: chiropractic practice: speech-language pathology and audiology and hearing aid dispensing: occupational therapy: physical therapy.

(1) Under existing law, violations of specified provisions relating to the registration, licensure, certification, or authorization required to engage in certain businesses and professions, including, among others, physical therapy, are punishable as infractions under specified circumstances.

This bill would provide that the practice of occupational therapy without a license is an infraction under this provision. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) The Chiropractic Act, enacted by an initiative measure, provides for the licensure and regulation of chiropractors in this state by the State Board of Chiropractic Examiners. Existing law requires that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature as if that act were scheduled to be repealed on January 1, 2018.

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature as if that act were scheduled to be repealed on January 1, 2022.

(3) Existing law, the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act, provides for the licensure and regulation of speech-language pathologists, audiologists, and hearing aid dispensers by the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, which is within the Department of Consumer Affairs. That act authorizes the board to appoint an executive officer. That act repeals the provisions establishing the board and the board's authority to appoint an executive officer on January 1, 2018.

This bill would extend the operation of the board and the board's authority to appoint an executive officer until January 1, 2022.

The act authorizes a superior court of a county, on application of the board, to issue an injunction or other appropriate restraining order against a person other than a licensed speech-language pathologist or audiologist for an act or practice in violation of that

act. That act authorizes the board to suspend, revoke, or impose terms and conditions upon the license of a licensee for, among other things, a conviction, as defined, of a crime substantially related to the qualifications, functions, and duties of a speech-language pathologist, audiologist, or hearing aid dispenser. The act authorizes the board to prosecute a person for a violation of the provisions of the act relating to hearing aid dispensers, as specified.

This bill would exclude licensed hearing aid dispensers from the persons against whom a superior court of a county is authorized to issue an injunction or other appropriate restraining order for an act or practice in violation of that act. The bill would expand the definition of a conviction, for the above-mentioned disciplinary purposes, to include certain convictions subsequently dismissed by a court. The bill would authorize the board to prosecute a person for a violation of any provision of the act.

The act requires each applicant for a hearing aid dispenser's license to take and pass a written examination and a practical examination, as specified. That act authorizes the board to issue a temporary hearing aid dispenser license to an applicant who, among other things, holds a hearing aid dispenser's license in another state. That act also authorizes the board to issue a temporary hearing aid dispenser license to an applicant who proves to the satisfaction of the board that he or she will be supervised and trained by a hearing aid dispenser who is approved by the board. That act requires a temporary licensee who is supervised to take a licensure examination within the first 10 months after the temporary license is issued, and requires that the license expire if the temporary licensee fails to take the licensure examination.

This bill would rename the temporary license of supervised licensees as the trainee license and would make conforming changes. The bill would extend the time by when the licensee is required to take the examination to 12 months after the trainee license is issued.

The act establishes the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund to carry out the purposes of the act and requires the board to pay all revenue received by the board pursuant to the act to the Treasurer for deposit in the fund.

This bill would specify that money in the fund shall be available upon appropriation by the Legislature.

(4) Existing law, the Occupational Therapy Practice Act, provides for the licensure and regulation of occupational therapists by the California Board of Occupational Therapy, which is within the Department of Consumer Affairs, and repeals the provisions establishing the board on January 1, 2018.

This bill would extend the operation of the board until January 1, 2022.

The act, among other things, prohibits a person from representing to the public by title, description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this state, or from using specified professional abbreviations or any other words, letters, or symbols with the intent to represent that he or she practices occupational therapy, unless he or she is authorized to practice occupational therapy under the act.

This bill would authorize a licensee under the act who has earned a doctoral degree in occupational therapy (OTD) or, after adoption by the board of specified regulations, a doctoral degree in a related area of practice or study to use specified abbreviations and titles in communications, as provided.

(5) Existing law, the Physical Therapy Practice Act, provides for the licensure and regulation of physical therapists and physical therapist assistants by the Physical Therapy Board of California, which is within the Department of Consumer Affairs. That act requires the board to appoint an executive officer and authorizes the board to employ other persons, as specified. That act repeals the provisions establishing the board and the board's authority to appoint an executive officer and other personnel on January 1, 2018.

This bill would extend the operation of the board and the board's authority to appoint an executive officer and other personnel until January 1, 2022.

A license issued under the act expires at 12 a.m. on the last day of the birth month of the licensee during the 2nd year of a 2-year term, if not renewed. To renew a license, the act requires the licensee to, among other things, apply for renewal, pay the prescribed renewal fee, and submit proof satisfactory to the board that he or she has completed the required number of continuing education hours established by regulation by the board, as provided. The act exempts a licensee from the requirement to pay a renewal fee and submit proof of continuing education if he or she has applied to the board for retired license status and prohibits the holder of a retired license from practicing or assisting in the provision of, physical therapy unless he or she applies for renewal and meets specified requirements.

This bill would repeal the provision relating to retired license status as of January 1, 2019.

The act requires an applicant for a physical therapy license who has graduated from a physical therapist education program not approved by the board and not located in the United States to comply with specified requirements, including demonstrating

proficiency in English by achieving a score specified by the board on the Test of English as a Foreign Language administered by the Educational Testing Services or such other examination as may be specified by the board by regulation.

This bill would instead allow an applicant, as described above, to demonstrate proficiency in English by achieving a score specified by the board on the Test of English as a Foreign Language or other means as prescribed by the board by regulation. The bill would also exempt from this requirement an applicant who has been awarded a bachelor's degree or higher in a physical therapist educational program from a college, university, or professional training school in Australia, any part of Canada other than Quebec, Ireland, New Zealand, the United Kingdom, the United States, or an English-speaking country specified by the board.

The act establishes various fees for licensure as a physical therapist, including application, issuance, licensure, and renewal fees. The act authorizes the board to decrease or increase the amount of these fees to an amount that does not exceed the cost of the associated activity. The act requires the board to report to specified committees of the Legislature whenever it increases any fee, as provided.

This bill, with respect to the fees described above, would delete the statutory limitation that the decreased or increased amount be in an amount that does not exceed the cost of the associated activity. The bill would repeal the requirement that the board report to the specified committees of the Legislature whenever it increases a fee.

The act authorizes the board to establish a fee, as provided, for persons certified to perform electromyographical testing and requires that the fee be paid as provided in specified law.

This bill would make a technical change to this provision by correcting an erroneous cross-reference to other law.

The act establishes the Physical Therapy Fund and requires that all collections from persons licensed or seeking to be licensed be paid by the board into the fund. Under the act, money in the fund from fees is continuously appropriated for the purpose of executing the act.

This bill would, instead, make the money in the fund available only upon appropriation by the Legislature.

Under existing law, a violation of any provision of the act is a misdemeanor.

By changing the scope of a crime, this bill would impose a state-mandated local program.

(6) This bill would incorporate additional changes to Section 146 of the Business and Professions Code proposed by SB 798 to be operative only if this bill and SB 798 are enacted and this bill is enacted last.

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

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

SECTION 1. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

(1) A complaint or 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 is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Sections 2052 and 2054.

- (2) Section 2570.3.
- (3) Section 2630.
- (4) Section 2903.
- (5) Section 3575.
- (6) Section 3660.
- (7) Sections 3760 and 3761.
- (8) Section 4080.
- (9) Section 4825.
- (10) Section 4935.
- (11) Section 4980.
- (12) Section 4989.50.
- (13) Section 4996.
- (14) Section 4999.30.
- (15) Section 5536.
- (16) Section 6704.
- (17) Section 6980.10.
- (18) Section 7317.
- (19) Section 7502 or 7592.
- (20) Section 7520.
- (21) Section 7617 or 7641.
- (22) Subdivision (a) of Section 7872.
- (23) Section 8016.
- (24) Section 8505.
- (25) Section 8725.
- (26) Section 9681.
- (27) Section 9840.
- (28) Subdivision (c) of Section 9891.24.
- (29) Section 19049.

(d) Notwithstanding any other law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for his or her conviction.

SEC. 1.5. Section 146 of the Business and Professions Code is amended to read:

146. (a) Notwithstanding any other provision of law, a violation of any code section listed in subdivision (c) is an infraction subject to the procedures described in Sections 19.6 and 19.7 of the Penal Code when either of the following applies:

- (1) A complaint or 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 is filed in court charging the offense as an infraction unless the defendant, at the time he or she is arraigned, after being advised of his or her rights, elects to have the case proceed as a misdemeanor.

(2) The court, with the consent of the defendant and the prosecution, determines that the offense is an infraction in which event the case shall proceed as if the defendant has been arraigned on an infraction complaint.

(b) Subdivision (a) does not apply to a violation of the code sections listed in subdivision (c) if the defendant has had his or her license, registration, or certificate previously revoked or suspended.

(c) The following sections require registration, licensure, certification, or other authorization in order to engage in certain businesses or professions regulated by this code:

(1) Section 2474

(2) Sections 2052 and 2054.

(3) Section 2570.3.

(4) Section 2630.

(5) Section 2903.

(6) Section 3575.

(7) Section 3660.

(8) Sections 3760 and 3761.

(9) Section 4080.

(10) Section 4825.

(11) Section 4935.

(12) Section 4980.

(13) Section 4989.50.

(14) Section 4996.

(15) Section 4999.30.

(16) Section 5536.

(17) Section 6704.

(18) Section 6980.10.

(19) Section 7317.

(20) Section 7502 or 7592.

(21) Section 7520.

(22) Section 7617 or 7641.

(23) Subdivision (a) of Section 7872.

(24) Section 8016.

(25) Section 8505.

(26) Section 8725.

(27) Section 9681.

(28) Section 9840.

(29) Subdivision (c) of Section 9891.24.

(30) Section 19049.

(d) Notwithstanding any other law, a violation of any of the sections listed in subdivision (c), which is an infraction, is punishable by a fine of not less than two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000). No portion of the minimum fine may be suspended by the court unless as a condition of that suspension the defendant is required to submit proof of a current valid license, registration, or certificate for the profession or vocation that was the basis for his or her conviction.

SEC. 2. Section 1000 of the Business and Professions Code is amended to read:

1000. (a) The law governing practitioners of chiropractic is found in an initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith," adopted by the electors November 7, 1922.

(b) The State Board of Chiropractic Examiners is within the Department of Consumer Affairs.

(c) Notwithstanding any other law, the powers and duties of the State Board of Chiropractic Examiners, as set forth in this article and under the act creating the board, shall be subject to review by the appropriate policy committees of the Legislature. The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2022.

SEC. 3. Section 2531 of the Business and Professions Code is amended to read:

2531. (a) There is in the Department of Consumer Affairs the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board in which the enforcement and administration of this chapter are vested. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board shall consist of nine members, three of whom shall be public members.

(b) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

(c) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 4. Section 2531.75 of the Business and Professions Code is amended to read:

2531.75. (a) The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in him or her by this chapter.

(b) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 5. Section 2533.1 of the Business and Professions Code is amended to read:

2533.1. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, and duties of a speech-language pathologist or audiologist is deemed to be a conviction within the meaning of this article. The board may order a licensee be disciplined or denied a license as provided in Section 2533 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, 1203.4a, or 1203.41 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

SEC. 6. Section 2533.4 of the Business and Professions Code is amended to read:

2533.4. Whenever a person other than a licensed speech-language pathologist, hearing aid dispenser, or audiologist has engaged in an act or practice which constitutes an offense under this chapter, a superior court of any county, on application of the board, may issue an injunction or other appropriate order restraining the conduct. 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 board may commence action in the superior court under this section on its own motion.

SEC. 7. Section 2534 of the Business and Professions Code is amended to read:

2534. There is in the State Treasury the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund. The board shall report to the Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter and shall pay the entire amount thereof to the Treasurer for deposit in the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund. All money in the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund shall be available, upon appropriation by the Legislature, to carry out the purposes of this chapter.

SEC. 8. Section 2538.19 of the Business and Professions Code is amended and renumbered to read:

2533.5. (a) The board may prosecute a person for a violation of this chapter.

(b) The board shall hear and decide a matter, including, but not limited to, a contested case or a petition for reinstatement or modification of probation, or may assign the matter to an administrative law judge in accordance with the Administrative Procedure Act. Except as otherwise provided in this chapter, a hearing 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.

SEC. 9. Section 2538.10 of the Business and Professions Code is amended to read:

2538.10. For the purposes of this article, the following definitions shall apply:

(a) "Advertise" and its variants include the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio, or television announcement, or any other means or methods now or hereafter employed to bring to the attention of the public the practice of fitting or selling of hearing aids.

(b) "License" means a hearing aid dispenser's license issued pursuant to this article and includes a temporary or trainee license.

(c) "Licensee" means a person holding a license.

(d) "Hearing aid" means any wearable instrument or device designed for, or offered for the purpose of, aiding or compensating for impaired human hearing.

(e) "Fund" means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund.

SEC. 10. Section 2538.28 of the Business and Professions Code is amended to read:

2538.28. (a) An applicant who has fulfilled the requirements of Section 2538.24, and has made application therefor, and who proves to the satisfaction of the board that he or she will be supervised and trained by a hearing aid dispenser who is approved by the board may have a trainee license issued to him or her. The trainee license shall entitle the trainee licensee to fit or sell hearing aids as set forth in regulations of the board. The supervising dispenser shall be responsible for any acts or omissions committed by a trainee licensee under his or her supervision that may constitute a violation of this chapter.

(b) The board shall adopt regulations setting forth criteria for its refusal to approve a hearing aid dispenser to supervise a trainee licensee, including procedures to appeal that decision.

(c) A trainee license issued pursuant to this section is effective and valid for six months from date of issue. The board may renew the trainee license for an additional period of six months. Except as provided in subdivision (d), the board shall not issue more than two renewals of a trainee license to any applicant. Notwithstanding subdivision (d), if a trainee licensee who is entitled to renew a trainee license does not renew the trainee license and applies for a new trainee license at a later time, the new trainee license shall only be issued and renewed subject to the limitations set forth in this subdivision.

(d) A new trainee license may be issued pursuant to this section if a trainee license issued pursuant to subdivision (c) has lapsed for a minimum of three years from the expiration or cancellation date of the previous trainee license. The board may issue only one new trainee license under this subdivision.

SEC. 11. Section 2538.29 of the Business and Professions Code is amended to read:

2538.29. A trainee licensed under Section 2538.28 shall take the licensure examination within the first 12 months after the trainee license is issued. Failure to take the licensure examination within that time shall result in expiration of the trainee license, and it shall not be renewed unless the trainee licensee has first taken the licensure examination. The board, however, may in its discretion renew the trainee license if the licensee failed to take the licensure examination due to illness or other hardship.

SEC. 12. Section 2538.30 of the Business and Professions Code is amended to read:

2538.30. (a) A temporary or trainee licensee shall not be the sole proprietor of, manage, or independently operate a business which engages in the fitting or sale of hearing aids.

(b) A temporary or trainee licensee shall not advertise or otherwise represent that he or she holds a license as a hearing aid dispenser.

SEC. 13. Section 2538.34 of the Business and Professions Code is amended to read:

2538.34. (a) Every licensee who engages in the practice of fitting or selling hearing aids shall have and maintain an established retail business address to engage in that fitting or selling, routinely open for service to customers or clients. The address of the licensee's place of business shall be registered with the board as provided in Section 2538.33.

(b) Except as provided in subdivision (c), if a licensee maintains more than one place of business within this state, he or she shall apply for and procure a duplicate license for each branch office maintained. The application shall state the name of the person and the location of the place or places of business for which the duplicate license is desired.

(c) A hearing aid dispenser may, without obtaining a duplicate license for a branch office, engage on a temporary basis in the practice of fitting or selling hearing aids at the primary or branch location of another licensee's business or at a location or facility that he or she may use on a temporary basis, provided that the hearing aid dispenser notifies the board in advance in writing of the dates and addresses of those businesses, locations, or facilities at which he or she will engage in the practice of fitting or selling hearing aids.

SEC. 14. Section 2538.35 of the Business and Professions Code is amended to read:

2538.35. A licensee shall, upon the consummation of a sale of a hearing aid, deliver to the purchaser a written receipt, signed by or on behalf of the licensee, containing all of the following:

(a) The date of consummation of the sale.

(b) Specifications as to the make, serial number, and model number of the hearing aid or aids sold.

(c) The address of the principal place of business of the licensee, and the address and office hours at which the licensee shall be available for fitting or postfitting adjustments and servicing of the hearing aid or aids sold.

(d) A statement to the effect that the aid or aids delivered to the purchaser are used or reconditioned, as the case may be, if that is the fact.

(e) The number of the licensee's license and the name and license number of any other hearing aid dispenser, temporary licensee, or trainee licensee, who provided any recommendation or consultation regarding the purchase of the hearing aid.

(f) The terms of any guarantee or written warranty, required by Section 1793.02 of the Civil Code, made to the purchaser with respect to the hearing aid or hearing aids.

SEC. 15. Section 2538.38 of the Business and Professions Code is amended to read:

2538.38. A licensee shall, upon the consummation of a sale of a hearing aid, keep and maintain records in his or her office or place of business at all times and each record shall be kept and maintained for a seven-year period. All records related to the sale and fitting of hearing aids shall be open to inspection by the board or its authorized representatives upon reasonable notice. The records kept shall include:

(a) Results of test techniques as they pertain to fitting of the hearing aid.

(b) A copy of the written receipt required by Section 2538.35 and the written recommendation and receipt required by Section 2538.36 when applicable.

(c) Records of maintenance or calibration of equipment used in the practice of fitting or selling hearing aids.

SEC. 16. Section 2570.18 of the Business and Professions Code is amended to read:

2570.18. (a) A person shall not represent to the public by title, education, or background, or by description of services, methods, or procedures, or otherwise, that the person is authorized to practice occupational therapy in this state, unless authorized to practice occupational therapy under this chapter.

(b) Unless licensed to practice as an occupational therapist under this chapter, a person may not use the professional abbreviations "O.T.," "O.T.R.," or "O.T.R./L.," or "Occupational Therapist," or "Occupational Therapist Registered," or any other words, letters, or symbols with the intent to represent that the person practices or is authorized to practice occupational therapy.

(c) A licensee who has earned a doctoral degree in occupational therapy (OTD) or, after adoption of the regulations described in subdivision (e), a doctoral degree in a related area of practice or study may do the following:

(1) In a written communication, use the initials OTD, DrPH, PhD, or EdD, as applicable, following the licensee's name.

(2) In a written communication, use the title "Doctor" or the abbreviation "Dr." preceding the licensee's name, if the licensee's name is immediately followed by an unabbreviated specification of the applicable doctoral degree held by the licensee.

(3) In a spoken communication while engaged in the practice of occupational therapy, use the title "Doctor" preceding the licensee's name, if the licensee specifies that he or she is an occupational therapy practitioner.

(d) A doctoral degree described in subdivision (c) shall be granted by an institution and program accredited by the Western Association of Schools and Colleges, the Accreditation Council on Occupational Therapy Education, or by an accrediting agency recognized by the National Commission on Accrediting or the United States Department of Education that the board determines is equivalent to the Western Association of Schools and Colleges.

(e) The board shall define, by regulation, the doctoral degrees that are in a related area of practice or study for purposes of subdivision (c).

(f) Unless licensed to assist in the practice of occupational therapy as an occupational therapy assistant under this chapter, a person may not use the professional abbreviations "O.T.A.," "O.T.A./L.," "C.O.T.A.," "C.O.T.A./L.," or "Occupational Therapy Assistant," "Licensed Occupational Therapy Assistant," or any other words, letters, or symbols, with the intent to represent that the person assists in, or is authorized to assist in, the practice of occupational therapy as an occupational therapy assistant.

(g) The unauthorized practice or representation as an occupational therapist or as an occupational therapy assistant constitutes an unfair business practice under Section 17200 and false and misleading advertising under Section 17500.

SEC. 17. Section 2570.19 of the Business and Professions Code is amended to read:

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

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

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

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

(3) Three public members who shall not be licentiates of the board, of any other board under this division, or of any board referred to in Section 1000 or 3600.

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

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

(e) The public members may not be or have ever been occupational therapists or occupational therapy assistants or in training to become occupational therapists or occupational therapy assistants. The public members may not be related to, or have a household member who is, an occupational therapist or an occupational therapy assistant, and may not have had, within two years of the appointment, a substantial financial interest in a person regulated by the board.

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

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

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

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

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

(k) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

(l) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 18. Section 2602 of the Business and Professions Code is amended to read:

2602. (a) The Physical Therapy Board of California, hereafter referred to as the board, shall enforce and administer this chapter.

(b) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

(c) Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 19. Section 2607.5 of the Business and Professions Code is amended to read:

2607.5. (a) The board may employ an executive officer exempt from the provisions of the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code) and may also employ investigators, legal counsel, physical therapist consultants, and other assistance as it may deem necessary to carry out this chapter. The board may fix the compensation to be paid for services and may incur other expenses as it may deem necessary. Investigators employed by the board shall be provided special training in investigating physical therapy practice activities.

(b) The Attorney General shall act as legal counsel for the board for any judicial and administrative proceedings and his or her services shall be a charge against it.

(c) This section shall remain in effect only until January 1, 2022, and as of that date is repealed.

SEC. 20. Section 2648.7 of the Business and Professions Code is amended to read:

2648.7. (a) A licensee is exempt from the payment of the renewal fee and from meeting the requirements set forth in Section 2649 if he or she has applied to the board for retired license status. A holder of a license in retired status pursuant to this section shall not engage in the practice of, or assist in the provision of, physical therapy unless the licensee applies for renewal and meets all of the requirements as set forth in Section 2644.

(b) This section shall remain in effect only until January 1, 2019, and as of that date is repealed.

SEC. 21. Section 2653 of the Business and Professions Code is amended to read:

2653. An applicant for a license as a physical therapist who has graduated from a physical therapist education program that is not approved by the board and is not located in the United States shall do all of the following:

(a) Furnish documentary evidence satisfactory to the board, that he or she has completed a professional degree in a physical therapist educational program substantially equivalent at the time of his or her graduation to that issued by a board approved physical therapist education program. The professional degree must entitle the applicant to practice as a physical therapist in the country where the diploma was issued. The applicant shall meet the educational requirements set forth in paragraph (2) of subdivision (a) of Section 2650. The board may require an applicant to submit documentation of his or her education to a credentials evaluation service for review and a report to the board.

(b) (1) Except as provided in paragraph (2), demonstrate proficiency in English by achieving a score specified by the board on the Test of English as a Foreign Language administered by the Educational Testing Services or other means as may be specified by the board by regulation.

(2) An applicant shall be exempt from the requirement under paragraph (1) if the applicant has been awarded a bachelor's degree or higher in a physical therapist educational program from a college, university, or professional training school in Australia, any part of Canada other than Quebec, Ireland, New Zealand, the United Kingdom, the United States, or another English-speaking country specified by the board.

(c) Complete nine months of clinical service in a location approved by the board under the supervision of a physical therapist licensed by a United States jurisdiction, in a manner satisfactory to the board. The applicant shall have passed the written examination required in Section 2636 prior to commencing the period of clinical service. The board shall require the supervising physical therapist to evaluate the applicant and report his or her findings to the board. The board may in its discretion waive all or part of the required clinical service pursuant to guidelines set forth in its regulations. During the period of clinical service, the applicant shall be identified as a physical therapist license applicant. If an applicant fails to complete the required period of clinical service, the board may, for good cause shown, allow the applicant to complete another period of clinical service.

SEC. 22. Section 2682 of the Business and Professions Code is amended to read:

2682. There is in the State Treasury the Physical Therapy Fund. All collections from persons licensed or seeking to be licensed shall be paid by the board into the Physical Therapy Fund after reporting to the Controller at the beginning of each month the amount and source of the collections. All money in the Physical Therapy Fund shall be available, upon appropriation by the Legislature, for the exclusive purpose of executing this chapter.

SEC. 23. Section 2688 of the Business and Professions Code is amended to read:

2688. The amount of fees assessed in connection with licenses issued under this chapter is as follows:

(a) (1) The fee for an application for licensure as a physical therapist submitted to the board prior to March 1, 2009, shall be seventy-five dollars (\$75). The fee for an application submitted under Section 2653 to the board prior to March 1, 2009, shall be one hundred twenty-five dollars (\$125).

(2) The fee for an application for licensure as a physical therapist submitted to the board on or after March 1, 2009, shall be one hundred twenty-five dollars (\$125). The fee for an application submitted under Section 2653 to the board on or after March 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of an application fee under this subdivision, but in no event shall the application fee amount exceed three hundred dollars (\$300).

(b) The examination and reexamination fees for the physical therapist examination, physical therapist assistant examination, and the examination to demonstrate knowledge of the California rules and regulations related to the practice of physical therapy shall be the actual cost to the board of the development and writing of, or purchase of the examination, and grading of each written examination, plus the actual cost of administering each examination. The board, at its discretion, may require the licensure applicant to pay the fee for the examinations required by Section 2636 directly to the organization conducting the examination.

(c) (1) The fee for a physical therapist license issued prior to March 1, 2009, shall be seventy-five dollars (\$75).

(2) The fee for a physical therapist license issued on or after March 1, 2009, shall be one hundred dollars (\$100).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the fee under this subdivision, but in no event shall the fee to issue the license exceed one hundred fifty dollars (\$150).

(d) (1) The fee to renew a physical therapist license that expires prior to April 1, 2009, shall be one hundred fifty dollars (\$150).

(2) The fee to renew a physical therapist license that expires on or after April 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the renewal fee under this subdivision, but in no event shall the renewal fee amount exceed three hundred dollars (\$300).

(e) (1) The fee for application and for issuance of a physical therapist assistant license shall be seventy-five dollars (\$75) for an application submitted to the board prior to March 1, 2009.

(2) The fee for application and for issuance of a physical therapist assistant license shall be one hundred twenty-five dollars (\$125) for an application submitted to the board on or after March 1, 2009. The fee for an application submitted under Section 2653 to the board on or after March 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the fee under this subdivision, but in no event shall the application fee amount exceed three hundred dollars (\$300).

(f) (1) The fee to renew a physical therapist assistant license that expires prior to April 1, 2009, shall be one hundred fifty dollars (\$150).

(2) The fee to renew a physical therapist assistant license that expires on or after April 1, 2009, shall be two hundred dollars (\$200).

(3) Notwithstanding paragraphs (1) and (2), the board may decrease or increase the amount of the renewal fee under this subdivision, but in no event shall the renewal fee amount exceed three hundred dollars (\$300).

(g) Notwithstanding Section 163.5, the delinquency fee shall be 50 percent of the renewal fee in effect.

(h) (1) The duplicate wall certificate fee shall be fifty dollars (\$50). The duplicate renewal receipt fee amount shall be fifty dollars (\$50).

(2) Notwithstanding paragraph (1), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of issuing duplicates, but in no event shall that fee exceed one hundred dollars (\$100).

(i) (1) The endorsement or letter of good standing fee shall be sixty dollars (\$60).

(2) Notwithstanding paragraph (1), the board may decrease or increase the amount of the fee under this subdivision to an amount that does not exceed the cost of issuing an endorsement or letter, but in no event shall the fee amount exceed one hundred dollars (\$100).

SEC. 24. Section 2688.5 of the Business and Professions Code is repealed.

SEC. 25. Section 2689 of the Business and Professions Code is amended to read:

2689. (a) The board may establish by regulation suitable application and renewal fees of not more than two hundred dollars (\$200), for persons certified to perform electromyographical testing pursuant to Section 2620.5, based upon the cost of operating the certification program. The application fee shall be paid by the applicant at the time the application is filed and the renewal fee shall be paid as provided in Section 2644.

(b) The board shall charge an examination and reexamination fee of five hundred dollars (\$500) to applicants who are examined and who have been found to otherwise meet the board's standards for certification.

SEC. 26. Section 1.5 of this bill incorporates amendments to Section 146 of the Business and Professions Code proposed by both this bill and Senate Bill 798. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 146 of the Business and Professions Code, and (3) this bill is enacted after Senate Bill 798, in which case Section 1 of this bill shall not become operative.

SEC. 27. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.