

Memorandum 94-46

Administrative Adjudication: Conforming Revisions

Attached to this Memorandum are 23 pages of conforming revisions to accompany the alternate draft of administrative adjudication provisions attached to Memorandum 94-50. This contrasts with 374 pages of conforming revisions displayed at the last meeting to accompany the Revised Tentative Recommendation on *Administrative Adjudication by State Agencies* (July 1994). The alternate draft attached to Memorandum 94-50 does not require such extensive conforming revisions because it generally preserves the structure of the existing Administrative Procedure Act and the existing hearing procedures of non-APA agencies. It amends the existing APA in place, and creates a new Chapter 4.5 immediately preceding the existing APA to add enhancement provisions and the administrative adjudication bill of rights.

We have also kept these conforming revisions short by not revising the many statutory references to "the Administrative Procedure Act, Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code" to include a reference to the new Chapter 4.5. Instead, we accomplish this by a provision in the alternate draft saying that Chapter 4.5 "applies to an adjudicative proceeding required to be conducted under Chapter 5 (commencing with Section 11500), unless the statutes relating to the proceeding provide otherwise." Sections 11410.40, 11501.

Respectfully submitted,

Robert J. Murphy
Staff Counsel

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California State Board of Pharmacy

Bus. & Prof. Code § 4160 (technical amendment). Application of California Hazardous Substances Act; enforcement

4160. (a) The California Hazardous Substances Act, Chapter 13 (commencing with Section 28740) of Division 21 of the Health and Safety Code, applies to pharmacies and pharmacists and any other person or place subject to the jurisdiction of the board.

(b) The board may enforce that act when necessary for the protection of the health and safety of the public if prior regulatory notice is given in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, as amended). Board enforcement shall focus on those hazardous substances which relate significantly to or overlap the practice of pharmacy.

(c) "Poison," as used elsewhere in this chapter, shall reference a category of hazardous substances defined in Section 28743 of the Health and Safety Code which the board may by regulation make more specific.

Comment. Section 4160 is amended to delete the former reference to Chapter 4 (commencing with Section 11370) and Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The provisions for regulatory notice are contained in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

The former reference to the statutory provisions "as amended" is omitted as surplus. See Gov't Code § 9.

Real Estate Commissioner

Bus. & Prof. Code § 10175.2 (technical amendment). Monetary penalties

10175.2. (a) If the Real Estate Commissioner determines that the public interest and public welfare will be adequately served by permitting a real estate licensee to pay a monetary penalty to the department in lieu of an actual license suspension, the commissioner may, on the petition of the licensee, stay the execution of all or some part of the suspension on the condition that the licensee pay a monetary penalty and the further condition that the licensee incur no other cause for disciplinary action within a period of time specified by the commissioner.

(b) The commissioner may exercise the discretion granted to ~~him~~ under subdivision (a) either with respect to a suspension ordered by a decision after a contested hearing on an accusation against the licensee or by stipulation with the licensee after the filing of an accusation, but prior to the rendering of a decision based upon the accusation. In either case, the terms and conditions of the disciplinary action against the licensee shall be made part of a formal decision of

the commissioner which satisfies the requirements of Section ~~11518~~ 11425.50 of the Government Code.

(c) If a licensee fails to pay the monetary penalty in accordance with the terms and conditions of the decision of the commissioner, the commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the licensee shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the department under the terms of the decision.

(d) The amount of the monetary penalty payable under this section shall not exceed two hundred fifty dollars (\$250) for each day of suspension stayed nor a total of ten thousand dollars (\$10,000) per decision regardless of the number of days of suspension stayed under the decision.

(e) Any monetary penalty received by the department pursuant to this section shall be credited to the Recovery Account of the Real Estate Fund.

Comment. Section 10175.2 is amended to correct the reference to provisions of the Administrative Procedure Act.

Alcoholic Beverage Control Appeals Board

Bus. & Prof. Code § 23083 (amended). Determination of appeal

23083. (a) The board shall determine the appeal upon the record of the department and upon any briefs which may be filed by the parties. If any party to the appeal requests the right to appear before the board, the board shall fix a time and place for argument. The board shall not receive any evidence other than that contained in the record of the proceedings of the department.

(b) The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, do not apply to the determination.

Comment. Section 23083 makes the administrative adjudication provisions of the Administrative Procedure Act inapplicable to determination of an appeal by the Alcoholic Beverage Control Appeals Board. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Nothing in Section 23083 excuses compliance with procedural protections otherwise required by due process of law.

State Board of Education, California Community Colleges, and California State University

Educ. Code § 232 (technical amendment). Issuance of regulations

232. The State Board of Education, the Board of Governors of the California Community Colleges, and the Trustees of the California State University shall issue regulations pursuant to Chapter 3.5 (commencing with Section 11340) and ~~Chapter 5 (commencing with Section 11500)~~ of Part 1 of Division 3 of Title 2 of

the Government Code, commonly referred to as the rulemaking provisions of the Administrative Procedure Act, to implement the provisions of this chapter.

The Regents of the University of California may issue regulations to implement the provisions of this chapter. If the Regents of the University of California choose to issue regulations it may issue them pursuant to Chapter 3.5 (commencing with Section 11340) and ~~Chapter 5 (commencing with Section 11500)~~ of Part 1 of Division 3 of Title 2 of the Government Code, commonly referred to as the rulemaking provisions of the Administrative Procedure Act.

Comment. Section 232 is amended to delete the references to the administrative adjudication portion of the Administrative Procedure Act. Regulations are issued pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

University of California

Educ. Code § 92001 (added). Adjudication provisions of Administrative Procedure Act inapplicable

92001. The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, do not apply to a hearing conducted by the University of California.

Comment. Section 92001 makes the administrative adjudication provisions of the Administrative Procedure Act inapplicable to hearings of the University of California. The section recognizes that the University of California enjoys a constitutional exemption. See Cal. Const. Art. 9, § 9 (University of California a public trust with full powers of government, subject to limited legislative control, and independent in administration of its affairs). Nothing in Section 92001 excuses compliance with procedural protections otherwise required by due process of law. See also Section 232 (Regents may issue regulations pursuant to rulemaking provisions of Administrative Procedure Act).

Note. Government Code Section 11018, infra, applies the language assistance requirement to every state agency, presumably including the University of California. But there is a question whether the language assistance requirement can be constitutionally applied to the University of California. See Cal. Const. Art 9, § 9.

Public Employment Relations Board (election certification)

Gov't Code § 3541.3 (amended). Powers and duties of board

3541.3. The board shall have all of the following powers and duties:

- (a) To determine in disputed cases, or otherwise approve, appropriate units.
- (b) To determine in disputed cases whether a particular item is within or without the scope of representation.
- (c) To arrange for and supervise representation elections which shall be conducted by means of secret ballot elections, and to certify the results of the elections.

(d) To establish lists of persons broadly representative of the public and qualified by experience to be available to serve as mediators, arbitrators, or factfinders. In no case shall these lists include persons who are on the staff of the board.

(e) To establish by regulation appropriate procedures for review of proposals to change unit determinations.

(f) Within its discretion, to conduct studies relating to employer-employee relations, including the collection, analysis, and making available of data relating to wages, benefits, and employment practices in public and private employment, and, when it appears necessary in its judgment to the accomplishment of the purposes of this chapter, recommend legislation. The board shall report to the Legislature by October 15 of each year on its activities during the immediately preceding fiscal year. The board may enter into contracts to develop and maintain research and training programs designed to assist public employers and employee organizations in the discharge of their mutual responsibilities under this chapter.

(g) To adopt, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2, rules and regulations to carry out the provisions and effectuate the purposes and policies of this chapter.

(h) To hold hearings, subpoena witnesses, administer oaths, take the testimony or deposition of any person, and, in connection therewith, to issue subpoenas duces tecum to require the production and examination of any employer's or employee organization's records, books, or papers relating to any matter within its jurisdiction. The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2, do not apply to a hearing by the board under this chapter, except a hearing to determine an unfair practice charge.

(i) To investigate unfair practice charges or alleged violations of this chapter, and take ~~such~~ the action and make ~~such~~ the determinations in respect of these charges or alleged violations as the board deems necessary to effectuate the policies of this chapter.

(j) To bring an action in a court of competent jurisdiction to enforce any of its orders, decisions, or rulings, or to enforce the refusal to obey a subpoena. Upon issuance of a complaint charging that any person has engaged in or is engaging in an unfair practice, the board may petition the court for appropriate temporary relief or restraining order.

(k) To delegate its powers to any member of the board or to any person appointed by the board for the performance of its functions, except that no fewer than two board members may participate in the determination of any ruling or decision on the merits of any dispute coming before it, and except that a decision to refuse to issue a complaint shall require the approval of two board members.

(l) To decide contested matters involving recognition, certification, or decertification of employee organizations.

(m) To consider and decide issues relating to rights, privileges, and duties of an employee organization in the event of a merger, amalgamation, or transfer of jurisdiction between two or more employee organizations.

(n) To take such other action as the board deems necessary to discharge its powers and duties and otherwise to effectuate the purposes of this chapter.

Comment. Section 3541.3 is amended to make the administrative adjudication provisions of the Administrative Procedure Act inapplicable to proceedings by the Public Employment Relations Board under this chapter, except hearings to determine unfair practice charges. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Nothing in Section 3541.3 excuses compliance with procedural protections otherwise required by due process of law.

Gov't Code § 3563 (amended). Powers and duties of board

3563. This chapter shall be administered by the Public Employment Relations Board. In administering this chapter the board shall have all of the following rights, powers, duties and responsibilities:

(a) To determine in disputed cases, or otherwise approve, appropriate units.

(b) To determine in disputed cases whether a particular item is within or without the scope of representation.

(c) To arrange for and supervise representation elections which shall be conducted by means of secret ballot elections, and to certify the results of the elections.

(d) To establish lists of persons broadly representative of the public and qualified by experience to be available to serve as mediators, arbitrators, or factfinders. In no case shall ~~such~~ the lists include persons who are on the staff of the board.

(e) To establish by regulation appropriate procedures for review of proposals to change unit determinations.

(f) To adopt, pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2, rules and regulations to carry out the provisions and effectuate the purposes and policies of this chapter.

(g) To hold hearings, subpoena witnesses, administer oaths, take the testimony or deposition of any person, and, in connection therewith, to issue subpoenas duces tecum to require the production and examination of any employer's or employee organization's records, books, or papers relating to any matter within its jurisdiction, except for those records, books, or papers confidential under statute. The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2, do not apply to a hearing by the board under this section, except a hearing to determine an unfair practice charge.

(h) To investigate unfair practice charges or alleged violations of this chapter, and take ~~such~~ the action and make ~~such~~ the determinations in respect of these charges or alleged violations as the board deems necessary to effectuate the policies of this chapter.

(i) To bring an action in a court of competent jurisdiction to enforce any of its orders, decisions or rulings or to enforce the refusal to obey a subpoena. Upon issuance of a complaint charging that any person has engaged in or is engaging in an unfair practice, the board may petition the court for appropriate temporary relief or restraining order.

(j) To delegate its powers to any member of the board or to any person appointed by the board for the performance of its functions, except that no fewer than two board members may participate in the determination of any ruling or decision on the merits of any dispute coming before it and except that a decision to refuse to issue a complaint shall require the approval of two board members.

(k) To decide contested matters involving recognition, certification, or decertification of employee organizations.

(l) To consider and decide issues relating to rights, privileges, and duties of an employee organization in the event of a merger, amalgamation, or transfer of jurisdiction between two or more employee organizations.

(m) To take such other action as the board deems necessary to discharge its powers and duties and otherwise to effectuate the purposes of this chapter.

Comment. Section 3563 is amended to make the administrative adjudication provisions of the Administrative Procedure Act inapplicable to proceedings by the Public Employment Relations Board under this chapter, except hearings to determine unfair practice charges. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Nothing in Section 3563 excuses compliance with procedural protections otherwise required by due process of law.

General Law

Gov't Code § 11018 (technical amendment). Language assistance in administrative hearings

11018. Every state agency which is authorized by any law to conduct administrative hearings but is not subject to Chapter 5 (commencing with Section 11500) shall nonetheless comply with ~~subdivision (d) of Section 11513~~ Sections 11435.20 and 11435.25 relative to the furnishing of language assistance at any such the hearing.

Comment. Section 11018 is amended to correct references to the Administrative Procedure Act.

Commission on State Mandates

Gov't Code § 17533 (added). Administrative adjudication provisions of Administrative Procedure Act not applicable

17533. The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2, do not apply to a hearing by the commission under this part.

Comment. Section 17533 makes the administrative adjudication provisions of the Administrative Procedure Act inapplicable to hearings by the Commission on State Mandates under this part. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Nothing in Section 17533 excuses compliance with procedural protections otherwise required by due process of law.

Office of Statewide Health Planning and Development

Health & Safety Code § 443.37 (technical amendment). Review

443.37. Any health facility affected by any determination made under this part by the office may petition the office for review of the decision. This petition shall be filed with the office within 15 business days, or within such a greater time as the office, with the advice of the commission, may allow, and shall specifically describe the matters which are disputed by the petitioner.

A hearing shall be commenced within 60 calendar days of the date on which the petition was filed. The hearing shall be held before an employee of the office, a ~~hearing officer~~ an administrative law judge employed by the Office of Administrative Hearings, or a committee of the commission chosen by the chairperson for this purpose. If held before an employee of the office or a committee of the commission, the hearing shall be held in accordance with such procedures as the office, with the advice of the commission, shall prescribe. If held before a ~~hearing officer~~ an administrative law judge employed by the Office of Administrative Hearings, the hearing shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The employee, ~~hearing officer~~ administrative law judge, or committee shall prepare a recommended decision including findings of fact and conclusions of law and present it to the office for its adoption. The decision of the office shall be in writing and shall be final. The decision of the office shall be made within 60 calendar days after the conclusion of the hearing and shall be effective upon filing and service upon the petitioner.

Judicial review of any final action, determination, or decision may be had by any party to the proceedings as provided in Section 1094.5 of the Code of Civil Procedure. The decision of the office shall be upheld against a claim that its findings are not supported by the evidence unless the court determines that the findings are not supported by substantial evidence.

The employee of the office, the ~~hearing officer~~ administrative law judge employed by the Office of Administrative Hearings, the Office of Administrative Hearings, or the committee of the commission, may issue subpoenas and subpoenas duces tecum in a manner and subject to the conditions established by Section 11510 Article 11 (commencing with Section 11450.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

Comment. Section 443.37 is amended to correct references to the Administrative Procedure Act. A hearing held in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the

Government Code is also subject to Chapter 4.5 (administrative adjudication general provisions) of that part, division, and title. Gov't Code §§ 11410.40, 11501.

Note. The part in which Section 443.37 appears has a sunset provision, and is repealed on January 1, 1997. See Section 443.46. This is addressed in the operative date provision at the end of these conforming revisions.

State Department of Health Services (part 1)

Health & Safety Code § 1551.5 (technical amendment). Witness fees

1551.5. Notwithstanding Section ~~11510~~ 11450.40 of the Government Code, witnesses subpoenaed at the request of the department for a hearing conducted pursuant to this article who attend a hearing may be paid by the department witness fees and mileage as provided by Section 68093 of the Government Code. In addition, the department may pay actual, necessary, and reasonable expenses in an amount not to exceed the per diem allowance payable to a nonrepresented state employee on travel status. The department may pay witness expenses pursuant to this section in advance of the hearing.

Comment. Section 1551.5 is amended to correct a reference to the Administrative Procedure Act.

State Department of Alcohol and Drug Programs

Health & Safety Code § 11834.37 (technical amendment). Conduct of proceedings

11834.37. (a) Proceedings for the suspension, revocation, or denial of a license under this chapter shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In the event of conflict between this chapter and the Government Code, the Government Code shall prevail.

(b) In all proceedings conducted in accordance with this section, the standard of proof to be applied shall be by the preponderance of the evidence.

(c) The department shall commence and process licensure revocations under this chapter in a timely and expeditious manner. ~~Notwithstanding Section 11502.1 of the Government Code, the~~ The Office of Administrative Hearings shall give priority calendar preference to licensure revocation hearings pursuant to this chapter, particularly revocations where the health and safety of the residents are in question.

Comment. Section 11834.37 is amended to delete the reference to former Section 11502.1 of the Government Code, which has been repealed. A proceeding conducted in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code is also subject to the provisions of Chapter 4.5 (administrative adjudication general provisions) of that part, division, and title. Gov't Code §§ 11410.40, 11501.

Building Standards Commission

Health & Safety Code § 18949.6 (technical amendment). Building standards; regulations

18949.6. (a) The commission shall adopt regulations setting forth the procedure for the adoption of building standards and administrative regulations that apply directly to the implementation or enforcement of building standards.

(b) Regulatory adoption shall be accomplished so as to facilitate the triennial adoption of the specified model codes pursuant to Section 18928.

(c) The regulations shall allow for the distribution of proposed building standards and regulatory changes to the public for review in compliance with the requirements of the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340), ~~Chapter 4 (commencing with Section 11370), and Chapter 5 (commencing with Section 11500)~~ of Part 1 of Division 3 of Title 2 of the Government Code) and for the acceptance of responses from the public.

Comment. Section 18949.6 is amended to correct the reference to the Administrative Procedure Act.

Department of Toxic Substances Control

Health & Safety Code § 25149 (amended). Endangerment to health and environment

25149. (a) Notwithstanding any other provision of law, except as provided in Section 25149.5 or 25181 of this code or Section 731 of the Code of Civil Procedure, no city or county, whether chartered or general law, or district may enact, issue, enforce, suspend, revoke, or modify any ordinance, regulation, law, license, or permit relating to an existing hazardous waste facility so as to prohibit or unreasonably regulate the disposal, treatment, or recovery of resources from hazardous waste or a mix of hazardous and solid wastes at that facility, unless, after public notice and hearing, the director determines that the operation of the facility may present an imminent and substantial endangerment to health and the environment. However, nothing in this section authorizes an operator of that facility to violate any term or condition of a local land use permit or any other provision of law not in conflict with this section.

(b) The director shall, pursuant to subdivision (c), conduct the hearing specified in subdivision (a) to determine whether the operation of an existing hazardous waste facility may present an imminent and substantial endangerment to health and the environment whenever any of the following occurs:

(1) A state or federal public agency requires any person to evacuate a residence or requires the evacuation of a school, place of employment, commercial establishment, or other facility to which the public has access, because of the release of a hazardous substance from the facility.

(2) For more than five days in any month, the air emissions from the facility result in the violation of an emission standard for a hazardous air pollutant

established pursuant to Section 7412 of Title 42 of the United States Code or the threshold exposure level for a toxic air contaminant, as defined in Section 39655.

(3) A state or federal public agency requires that the use of a source of drinking water be discontinued because of the contamination of the source by a release of hazardous waste, hazardous substances, or leachate from the facility.

(4) A state agency, or the board of supervisors of the county in which the facility is located, upon recommendation of its local health officer, makes a finding that the public health has been affected by a release of hazardous wastes from the facility. The finding shall be based on statistically significant data developed in a health effects study conducted according to a study design, and using a methodology, which are developed after considering the suggestions on study design and methodology made by interested parties and which are approved by the Epidemiological Studies Section in the Epidemiology and Toxicology Branch of the State Department of Health Services before beginning the study.

(5) The owner or operator of the facility is in violation of an order issued pursuant to Section 25187 which requires one or both of the following:

(A) The correction of a violation or condition that has resulted, or threatens to result, in an unauthorized release of hazardous waste or a constituent of hazardous waste from the facility into either the onsite or offsite environment.

(B) The cleanup of a release of hazardous waste or a constituent of hazardous waste, the abatement of the effects of the release, and any other necessary remedial action.

(6) The facility is in violation of an order issued pursuant to Article 1 (commencing with Section 13300) of, or Article 2 (commencing with Section 13320) of, Chapter 5 of Division 7 of the Water Code or in violation of a temporary restraining order, preliminary injunction, or permanent injunction issued pursuant to Article 4 (commencing with Section 13340) of Chapter 5 of Division 7 of the Water Code.

(c) Whenever the director determines that a hearing is required, as specified in subdivision (b), the director shall immediately request the Office of Administrative Hearings to assign a ~~hearing officer~~ an administrative law judge to conduct the hearing, pursuant to this subdivision.

(1) After a ~~hearing officer~~ an administrative law judge is assigned by the Office of Administrative Hearings, the director shall transmit to the ~~hearing officer~~ administrative law judge and to the operator of the existing hazardous waste facility, all relevant documents, information, and data that were the basis for the director's determination. The director shall also prepare a notice specifying the time and place of the hearing. The notice shall also include a clear statement of the reasons for conducting the hearing, a description of the facts, data, circumstances, or occurrences that are the cause for conducting the hearing, and the issues to be addressed at the hearing. The hearing shall be held as close to the location of the existing hazardous waste facility as is practicable and shall commence no later

than 30 days following the director's request to the Office of Administrative Hearings to assign ~~a hearing officer~~ an administrative law judge to the case.

(2) The hearing specified in paragraph (1) shall be conducted in accordance with Sections ~~11510~~ 11511 to 11515, inclusive, and ~~Section 11525~~, of the Government Code. The hearing officer's proposed decision shall be transmitted to the director within 30 days after the case is submitted.

(3) The director may adopt the proposed decision of the hearing officer in its entirety or may decide the case upon the record, as provided in Section 11517 of the Government Code. The director's decision shall be in writing and shall contain findings of fact and a determination of the issues presented. The decision is subject to judicial review in accordance with Section 11523 of the Government Code.

Comment. Section 25149 is amended to reflect the repeal of Sections 11510 and 11525 of the Government Code. A number of provisions formerly found in Government Code Sections 11510-11515 are now located in general provisions on administrative adjudication, which apply to all state adjudicative proceedings. See, e.g., Gov't Code §§ 11430.10-11430.80 (ex parte communications), 11450.10-11450.40 (subpoenas), 11455.10-11455.30 (enforcement of orders and sanctions).

Local Hospital Districts

Health & Safety Code § 32154 (technical amendment). Subpoenas

32154. The board or the hearing officer, if one is appointed, shall have the same power with respect to the issuance of subpoenas and subpoenas duces tecum as that granted to any agency or hearing presiding officer pursuant to Section 11510 Article 11 (commencing with Section 11450.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. Any such subpoena or subpoena duces tecum issued pursuant to this section shall have the same force and effect and impose the same obligations upon witnesses as that provided in Section 11510 Article 11 (commencing with Section 11450.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

Comment. Section 32154 is amended to correct references to provisions of the Administrative Procedure Act.

Air Resources Board

Health & Safety Code § 40843 (technical amendment). Superior court proceedings

40843. Upon receipt of a report submitted pursuant to Section 40842, the superior court shall proceed as specified in Section ~~11525~~ 11455.20 of the Government Code.

Comment. Section 40843 is amended to correct the reference to a provision of the Administrative Procedure Act.

Agricultural Labor Relations Board (election certification)

Lab. Code § 1144.5 (added). Adjudication provisions of Administrative Procedure Act inapplicable

1144.5. (a) The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, do not apply to a hearing by the board under this part, except a hearing to determine an unfair labor practice charge.

(b) Notwithstanding Sections 11425.30 and 11430.10 of the Government Code, in a hearing to determine an unfair labor practice charge, a person who has participated in a determination of probable cause, injunctive or other pre-hearing relief, or other equivalent preliminary determination in an adjudicative proceeding may serve as presiding officer or as a supervisor of the presiding officer or may assist or advise the presiding officer in the same proceeding.

Comment. Subdivision (a) of Section 1144.5 makes the administrative adjudication provisions of the Administrative Procedure Act inapplicable to proceedings by the Agricultural Labor Relations Board under this part, except hearings to determine unfair labor practice charges. Nothing in Section 1144.5 excuses compliance with procedural protections otherwise required by due process of law. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Subdivision (b) provides a broader exception for the Agricultural Labor Relations Board than the comparable provisions in the Administrative Procedure Act. See Gov't Code §§ 11425.30(b) (when separation not required), 11430.10 (ex parte communications prohibited).

Division of Workers' Compensation — Workers' Compensation Appeals Board

Lab. Code § 5811 (technical amendment). Hearings and investigations

5811. (a) No fees shall be charged by the clerk of any court for the performance of any official service required by this division, except for the docketing of awards as judgments and for certified copies of transcripts thereof. In all proceedings under this division before the appeals board, costs as between the parties may be allowed by the appeals board.

(b) It shall be the responsibility of any party producing a witness requiring an interpreter to arrange for the presence of a qualified interpreter. A qualified interpreter is a language interpreter who is certified, or deemed certified, pursuant to Section 11513 or Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, and Section 68566 of, the Government Code.

Interpreter fees which are reasonably, actually, and necessarily incurred shall be allowed as cost under this section, provided they are in accordance with the fee schedule set by the administrative director.

A qualified interpreter may render services during the following:

- (1) A deposition.
- (2) An appeals board hearing.

(3) During those settings which the administrative director determines are reasonably necessary to ascertain the validity or extent of injury to an employee who cannot communicate in English.

Comment. Section 5811 is amended to correct a reference to a provision of the Administrative Procedure Act.

Occupational Safety and Health Appeals Board

Lab. Code § 6603 (technical amendment). Rules of practice and procedure

6603. (a) The rules of practice and procedure adopted by the appeals board shall be consistent with Sections 11507, 11507.6, 11507.7, ~~11510~~, 11513, 11514, 11515, ~~11516~~, and ~~11525~~ 11516 of the Government Code, and shall provide affected employees or representatives of affected employees an opportunity to participate as parties to a hearing under Section 6602.

(b) The superior courts shall have jurisdiction over contempt proceedings, as provided in ~~Section 11525~~ Article 12 (commencing with Section 11455.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

Comment. Section 6603 is amended to correct references to sections in the Administrative Procedure Act. Former Section 11510 of the Government Code is superseded by Sections 11450.10-11450.40 of the Government Code (subpoenas). Former Section 11525 of the Government Code is superseded by Sections 11455.10-11455.30 of the Government Code (enforcement of orders and sanctions). Rules of practice and procedure adopted by the appeals board must be consistent with these provisions, and with all other general provisions governing administrative adjudication found in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

Military Department

Mil. & Vet. Code § 105 (added). Adjudication provisions of Administrative Procedure Act inapplicable

105. The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, do not apply to a hearing conducted by the Military Department under this code.

Comment. Section 105 exempts California Military Department hearings under this code. The hearings are a hybrid of federal and special state provisions that are unique and involve primarily matters of military classification and discipline. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Department of Corrections and related entities (Board of Prison Terms, Youth Authority, Youthful Offender Parole Board, and Narcotic Addict Evaluation Authority — part 1)

Pen. Code § 3066 (added). Adjudication provisions of Administrative Procedure Act inapplicable

3066. The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, do not apply to a parole hearing or other adjudication concerning rights of an inmate or parolee conducted by the Department of Corrections or the Board of Prison Terms.

Comment. Section 3066 makes the administrative adjudication provisions of the Administrative Procedure Act inapplicable to a parole hearing or other adjudication of rights of an inmate or parolee conducted by the Department of Corrections or the Board of Prison Terms. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Nothing in Section 3066 excuses compliance with procedural protections otherwise required by due process of law.

State Energy Resources Conservation and Development Commission

Pub. Res. Code § 25513.3 (added). Permissible assistance or advice

25513.3. Notwithstanding Sections 11425.30 and 11430.10 of the Government Code, unless a party demonstrates other statutory grounds for disqualification, a person who has served as investigator or advocate in an adjudicative proceeding of the commission under this code may serve as a supervisor of the presiding officer or assist or advise the presiding officer in the same proceeding if the service, assistance, or advice occurs more than one year after the time the person served as investigator or advocate, provided the content of any advice is disclosed on the record and all parties have an opportunity to comment on the advice.

Comment. Section 25513.3 is added to provide an exception to the separation of functions and ex parte communications provisions of the Administrative Procedure Act necessary to ensure efficient operation of the California Energy Commission.

California Coastal Commission

Pub. Res. Code § 30329 (added). Ex parte communications provisions of Administrative Procedure Act not applicable

30329. Article 7 (commencing with Section 11430.10) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code does not apply to proceedings of the commission.

Comment. Section 30329 is added to exempt the California Coastal Commission from the ex parte communications provisions of the Administrative Procedure Act. See also Section 30105 ("commission" means California Coastal Commission).

Public Utilities Commission

Pub. Util. Code § 1701 (amended). Rules of procedure

1701. (a) All hearings, investigations, and proceedings shall be governed by this part and by rules of practice and procedure adopted by the commission, and in the conduct thereof the technical rules of evidence need not be applied. No informality in any hearing, investigation, or proceeding or in the manner of taking testimony shall invalidate any order, decision or rule made, approved, or confirmed by the commission.

(b) The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, do not apply to a hearing by the commission under this part.

Comment. Section 1701 is amended to make the administrative adjudication provisions of the Administrative Procedure Act inapplicable to a hearing by the Public Utilities Commission under the Public Utilities Act. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Nothing in Section 1701 excuses compliance with procedural protections otherwise required by due process of law.

State Board of Equalization

Rev. & Tax. Code § 1636 (technical amendment). Hearing officers

1636. The county board of supervisors may appoint one or more assessment hearing officers or contract with the Office of Administrative Procedure Hearings for the services of ~~a hearing officer~~ an administrative law judge pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code to conduct hearings on any assessment protests filed under Article 1 (commencing with Section 1601) of this chapter and to make recommendations to the county board of equalization or assessment appeals board concerning ~~such~~ the protests. Only persons meeting the qualifications prescribed by Section 1624 may be appointed as an assessment hearing officer.

Comment. Section 1636 is amended to correct a reference to the Office of Administrative Hearings. See Gov't Code §§ 11370.2, 27727 (Office of Administrative Hearings).

Note. The staff believes this is the last remaining codified reference to the Office of Administrative Procedure. If so, we could delete subdivision (c) from Government Code Section 11370.2(c), which says "references in any law to the Office of Administrative Procedure shall be deemed to be the Office of Administrative Hearings." We are inclined not to do this, since there may be references in uncoded statutes to the Office of Administrative Procedure.

Department of Motor Vehicles

Veh. Code § 14112 (amended). Exemption from separation of functions

14112. (a) All matters in a hearing not covered by this chapter shall be governed, as far as applicable, by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Subdivision (a) of Section 11425.30 of the Government Code does not apply to a proceeding for issuance, denial, revocation, or suspension of a driver's license pursuant to this division. The Department of Motor Vehicles shall study the effect of that subdivision on proceedings involving vehicle operation certificates and shall report to the Legislature by December 31, 1999, with recommendations concerning experience with its application in those proceedings.

Comment. Subdivision (b) is added to Section 14112 in recognition of the personnel problem faced by the Department of Motor Vehicles due to the large volume of drivers' licensing cases. Subdivision (b) makes separation of functions requirements inapplicable in drivers' licensing cases, including license classifications and endorsements. However, the separation of functions requirements remain applicable in other Department of Motor Vehicle hearings, including schoolbus and ambulance operation certificate hearings, on which the department is required to report.

Department of Corrections and related entities (Board of Prison Terms, Youth Authority, Youthful Offender Parole Board, and Narcotic Addict Evaluation Authority — part 2)

Welf. & Inst. Code § 1778 (added). Adjudication provisions of Administrative Procedure Act inapplicable

1778. The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, do not apply to a parole hearing or other adjudication concerning rights of a person committed to the control of the Youth Authority conducted by the Youth Authority or the Youthful Offender Parole Board.

Comment. Section 1778 makes the administrative adjudication provisions of the Administrative Procedure Act inapplicable to a parole hearing or other adjudication of rights of a ward conducted by the Youth Authority or the Youthful Offender Parole Board. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Nothing in Section 1778 excuses compliance with procedural protections otherwise required by due process of law.

Welf. & Inst. Code § 3158 (added). Adjudication provisions of Administrative Procedure Act inapplicable

3158. The administrative adjudication provisions of the Administrative Procedure Act, Chapters 4.5 (commencing with Section 11400) and 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, do not apply to a release hearing or other adjudication

concerning rights of a person committed to the custody of the Director of Corrections conducted by the Narcotic Addiction Evaluation Authority.

Comment. Section 3158 makes adjudicative provisions of the Administrative Procedure Act inapplicable to a parole hearing or other adjudication of rights of a civil addict conducted by the Narcotic Addiction Evaluation Authority. Exemption of the agency's hearings from the Administrative Procedure Act does not exempt the hearings from the language assistance requirements of that act. Gov't Code § 11435.15(d).

Nothing in Section 3158 excuses compliance with procedural protections otherwise required by due process of law.

State Department of Health Services (part 2) and State Department of Social Services

Welf. & Inst. Code § 11350.6 (technical amendment). (Operative until January 1, 1997)
Compliance with support order

11350.6. (a) As used in this section:

(1) "Board" means any entity specified in Section 101 of the Business and Professions Code, the entities referred to in Sections 1000 and 3600 of the Business and Professions Code, the State Bar, the Department of Real Estate, and any other state agency that issues a license, certificate, or registration authorizing a person to engage in a business or profession.

(2) "Licensee" means any person holding a license, certificate, permit, registration, or other authorization issued by a board, to engage in a business, occupation, or profession, or a commercial driver's license as defined in Section 15210 of the Vehicle Code.

(3) "License" includes membership in the State Bar, and a certificate, permit, registration, or any other authorization issued by a board that allows a person to engage in a business, occupation, or profession, or to operate a commercial motor vehicle

(4) "Applicant" means any person applying for issuance or renewal of a license.

(5) "Compliance with a judgment or order for support" means that, as set forth in a judgment or order for child or family support, the obligor is no more than 30 calendar days in arrears in making payments in full for current support, in making periodic payments on a support arrearage, or in making periodic payments on a reimbursement for public assistance, or has obtained a judicial finding that equitable estoppel as provided in statute or case law precludes enforcement of the order.

(6) "Certified list" means a list provided by the district attorney to the State Department of Social Services in which the district attorney verifies, under penalty of perjury, that the names contained therein are support obligors found to be out of compliance with a judgment or order for support in a case being enforced under Title IV-D of the Social Security Act.

(b) The district attorney shall maintain a list of those persons included in a case being enforced under Title IV-D of the Social Security Act for whom a child support order or judgment has been rendered by, or registered in, a court of this

state and who are not in compliance with that order or judgment. The district attorney shall submit a certified list with the names, social security numbers, and last known addresses of these persons and the name, address, and telephone number of the district attorney who certified the list to the State Department of Social Services. The district attorney shall verify, under penalty of perjury, that the persons listed are subject to an order or judgment for the payment of support and that these persons are not in compliance with the order or judgment. The district attorney shall submit to the State Department of Social Services an updated certified list on a monthly basis.

(c) The State Department of Social Services shall consolidate the certified lists received from the district attorneys and, within 30 calendar days of receipt, shall provide a copy of the consolidated list to each board which is responsible for the regulation of licenses, as specified in this section.

(d) On or before November 1, 1992, or as soon thereafter as economically feasible, as determined by the State Department of Social Services, all boards subject to this section shall implement procedures to accept and process the list provided by the State Department of Social Services, in accordance with this section.

(e) Promptly after receiving the certified consolidated list from the State Department of Social Services, and prior to the issuance or renewal of a license, each board shall determine whether the applicant is on the most recent certified consolidated list provided by the State Department of Social Services. If the applicant is on the list, the board shall immediately serve notice as specified in subdivision (f) on the applicant of the board's intent to withhold issuance or renewal of the license. The notice shall be made personally or by mail to the applicant's last known mailing address on file with the board.

(1) The board shall issue a temporary license valid for a period of 150 days to any applicant whose name is on the certified list if the applicant is otherwise eligible for a license.

(2) The temporary license shall not be extended. Only one temporary license shall be issued during a regular license term and it shall coincide with the first 150 days of that license term. As this paragraph applies to commercial driver licenses, "license term" shall be deemed to be 12 months from the date the application fee is received by the Department of Motor Vehicles. A license for the full or remainder of the license term shall be issued or renewed only upon compliance with this section.

(3) In the event that a license or application is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board.

(f) Notices shall be developed by each board in accordance with guidelines provided by the State Department of Social Services and subject to approval by the State Department of Social Services. The notice shall include the address and telephone number of the district attorney who submitted the name on the certified list, and shall emphasize the necessity of obtaining a release from that district

attorney's office as a condition for the issuance or renewal of a license. The notice shall inform the applicant that the board shall issue a temporary license, as provided in paragraph (1) of subdivision (e) for 150 calendar days if the applicant is otherwise eligible and that upon expiration of that time period the license will be denied unless the board has received a release from the district attorney who submitted the name on the certified list. The notice shall also inform the applicant that if a license or application is denied pursuant to this section, any funds paid by the applicant or licensee shall not be refunded by the board. The State Department of Social Services shall also develop a form that the applicant shall use to request a review by the district attorney. A copy of this form shall be included with every notice sent pursuant to this subdivision.

(g) Each district attorney shall establish review procedures by November 1, 1992, consistent with this section to allow an applicant to have the underlying arrearage and any relevant defenses investigated, to provide an applicant information on the process of obtaining a modification of a support order, or to provide an applicant assistance in the establishment of a payment schedule on arrearages if the circumstances so warrant.

(h) If the applicant wishes to challenge the submission of his or her name on the certified list, the applicant shall make a timely written request for review on the form specified in subdivision (f) to the district attorney who certified the applicant's name. The district attorney shall inform the applicant in writing of his or her findings upon completion of the review. The district attorney shall immediately send a release to the appropriate board and the applicant, if any of the following conditions are met:

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

(2) The applicant has submitted a request for review, but the district attorney will be unable to complete the review and send notice of his or her findings to the applicant in sufficient time for the applicant to file a timely petition for judicial review within the, 150-day period during which the applicant's temporary license is valid. This paragraph applies only if the delay in completing the review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving notice from the board that his or her name is on the list.

(3) The applicant has filed and served a request for judicial review pursuant to this section, but a resolution of that review will not be made within the 150-day period of the temporary license. This paragraph applies only if the delay in completing the judicial review process is not the result of the applicant's failure to act in a reasonable, timely, and diligent manner upon receiving the district attorney's notice of his or her findings.

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

(i) An applicant is required to act with diligence in responding to notices from the board and the district attorney with the recognition that the temporary license

will lapse after 150 days and that the district attorney and, where appropriate, the court must have time to act within that period. An applicant's delay in acting, without good cause, which directly results in the inability of the district attorney to complete a review of the applicant's request or the court to hear the request for judicial review within the 150-day period shall not constitute the diligence required under this section which would justify the issuance of a release.

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

(1) Judicial review of the district attorney's decision not to issue a release.

(2) A judicial determination of compliance.

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

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

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

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

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

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

The request for judicial review shall be served by the applicant upon the district attorney who submitted the applicant's name on the certified list within seven calendar days of the filing of the petition.

If the judicial review results in a finding by the court that the obligor is in compliance with the judgment or order for support, the district attorney shall immediately send a release in accordance with subdivision (h) to the appropriate board and the applicant

(l) The State Department of Social Services shall prescribe release forms for use by district attorneys. When the obligor is in compliance, the district attorney shall mail to the applicant and the appropriate board a release stating that the applicant is in compliance. The receipt of a release shall serve to notify the applicant and the board that, for the purposes of this section, the applicant is in compliance with the judgment or order for support, unless a district attorney, pursuant to subdivision (b), certifies subsequent to the issuance of a release that the applicant is once again not in compliance with a judgment or order for support.

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

(n) Notwithstanding any other provision of law, the boards and departments subject to this section may levy a surcharge on any fee or fees collected pursuant to law, with the approval of the appropriate department director, to cover the costs of implementing and administering this section. ~~Such a~~ The surcharge may be adopted without the necessity of adopting or amending regulations pursuant to the rulemaking provisions of the Administrative Procedures Procedure Act (Chapter 5 3.5 (commencing with Section 11500) 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

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

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

(1) The number of delinquent obligors certified by district attorneys under this section.

(2) The number of support obligors who also were applicants or licensees subject to this section.

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

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

(q) Any board receiving an inquiry as to the licensed status of an applicant who has had a license denied under this section or has been granted a temporary license under this section shall respond only that the license was denied or the temporary license was issued pursuant to this section. Information collected pursuant to this section shall be subject to the Information Practices Act (Section 1798.76 of the Civil Code).

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

(s) The State Department of Social Services and boards, as appropriate, shall adopt regulations necessary to implement this section.

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

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

(v) This section shall remain in effect only until January 1, 1997, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1997, deletes or extends that date.

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

Comment. Section 11350.6 is amended to correct references to the Administrative Procedure Act.

Operative Date

Uncodified. Operative date

SEC. _____. (a) Except as provided in subdivisions (b) and (c), this act becomes operative on July 1, 1997.

(b) If Section 443.37 of the Health and Safety Code is repealed before the operative date of this act, then Section [____] of this act, amending Section 443.37 of the Health and Safety Code, shall not become operative.

(c) If Section 11350.6 of the Welfare and Institutions Code is repealed before the operative date of this act, then Section [____] of this act, amending Section 11350.6 of the Welfare and Institutions Code, shall not become operative.