
UNFINISHED BUSINESS

Bill No: SB 1480
Author: Hill (D), et al.
Amended: 8/24/18
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 4/23/18
AYES: Hill, Fuller, Dodd, Galgiani, Glazer, Hernandez, Newman, Pan, Wilk

SENATE APPROPRIATIONS COMMITTEE: 5-1, 5/25/18
AYES: Lara, Beall, Bradford, Hill, Wiener
NOES: Nielsen
NO VOTE RECORDED: Bates

SENATE FLOOR: 34-4, 5/29/18
AYES: Allen, Anderson, Atkins, Bates, Beall, Bradford, Cannella, De León,
Dodd, Fuller, Galgiani, Glazer, Hernandez, Hertzberg, Hill, Hueso, Jackson,
Lara, Leyva, McGuire, Mitchell, Monning, Moorlach, Newman, Pan, Portantino,
Roth, Skinner, Stern, Stone, Vidak, Wieckowski, Wiener, Wilk
NOES: Gaines, Morrell, Nguyen, Nielsen
NO VOTE RECORDED: Berryhill

ASSEMBLY FLOOR: 61-15, 8/30/18 - See last page for vote

SUBJECT: Professions and vocations

SOURCE: Author

DIGEST: This bill makes a number of substantive changes to various boards and bureaus within the Department of Consumer Affairs (DCA), including several types of licensing fees imposed by the Board of Chiropractic Examiners (BCE), the Board of Podiatric Medicine (BPM), the Board of Vocational Nursing and Psychiatric Technicians (BVNPT), and the Naturopathic Medicine Committee (NMC); modifies the requirements for certification by the California Massage

Therapy Council (CAMTC); and, authorizes veterinarians to provide specified veterinary care during emergencies.

Assembly Amendments add fee language for the BVNPT, NMC, and the BPM; modify the certification requirements for the CAMTC until January 1, 2021; make various technical and clarifying changes relating to postgraduate training for physicians; delete the requirement for the Board of Pharmacy and the Board of Registered Nursing to directly employ legal counsel; and delete the requirement for boards to vote on budget change proposals.

ANALYSIS:

This bill:

- 1) Requires the Director of the DCA to amend Consumer Protection Enforcement Initiative guidelines to include the category of “allegations of serious harm to a minor” under the “urgent” or “highest priority level”.
- 2) Clarifies the renewal process for an expired optometrist license.
- 3) Authorizes a California licensed veterinarian, at a licensed premises located within a 25-mile radius of any state of emergency, as specified in the Government Code (GOV) Section 8558 to, in good faith, do both of the following:
 - a) Render necessary and prompt care and treatment to an animal patient without establishing a veterinarian-client-patient relationship if conditions are such that one cannot be established in a timely manner; and,
 - b) Dispense or prescribe a dangerous drug or device, as defined, in reasonable quantities where failure to provide services or medication, including controlled substances, may result in loss of life or intense suffering of the animal patient. Prior to refilling a prescription, the veterinarian must make a reasonable effort to contact the originally prescribing veterinarian.
- 4) Requires a veterinarian to make an appropriate record that includes the basis for proceeding in 3) above, and exempts a veterinarian from liability, as currently provided in GOV § 8659 related to emergencies.
- 5) Requires a veterinarian, the first time he or she prescribes, dispenses, or furnishes a dangerous drug to an animal patient in an outpatient setting, to provide a consultation that includes specified information and requires a veterinarian to provide drug documentation if available. Authorizes a

veterinarian to delegate to a registered veterinary technician or veterinary assistant the task of providing the consultation and drug documentation. Requires a note to be made in the animal patient's medical record if the consultation was accepted or declined.

- 6) Revises the current authorization for veterinary medical students to obtain clinical training, as specified. Prohibits a graduate of a recognized veterinary college from performing the animal health care tasks and duties a registered veterinary technician provides unless the graduate has obtained licensure or registration from the Veterinary Medical Board (VMB).
- 7) Revises and recasts the regulatory fees necessary to carry out the responsibilities of the Chiropractic Initiative Act, as specified.
- 8) Makes various technical and clarifying changes relating to requirements for physician and surgeon postgraduate training.
- 9) Revises the fees established under the BPM.
- 10) Provides fee increases and establishes new fees under the BVNPT, as specified.
- 11) Provides fee increases under the NMC, as specified.
- 12) Pauses the requirements than an applicant for certification under the CAMTC take and pass a CAMTC-approved examination until January 1, 2021.
- 13) Makes numerous other technical, clarifying, and conforming changes.

Background

Veterinary Medical Board. As a result of prior sunset reviews and past proposed legislative changes related to veterinary medical care, this bill proposes a number of changes to the Veterinary Medicine Practice Act, including: establishing a pathway for a probationary status for applicants for a veterinary assistant controlled substance permits (VACSP); allowing students from schools which are accredited by the American Veterinary Medical Association Council of Education to obtain clinical experience as long as the clinical experience is a part of the formal education and the student meets specified criteria including having formal training in diagnosis, treatment, and surgery prior to working on an animal; authorizing a veterinarian to provide prompt care and treatment or dispense or prescribe a dangerous drug or device if they are located within a 25-mile radius a declared emergency; requiring, beginning January 2020, persons providing

registered veterinary technician duties as a veterinary medical school graduate, without either a veterinary license or registered veterinary technician license to cease that practice until such time they are licensed by the VMB as either a veterinarian or a registered veterinary technician; requiring patient consultation when dispensing medication to become effective on January 1, 2019; and mandating that the VMB inspect at least 20% of veterinary premises on an annual basis.

Board of Optometry (BO). The BO oversees the licensure and regulation of optometrists and registered dispensing opticians. BPC Sections 3147, 3147.6 specifies the pathway for expired licenses to be renewed or restored. Because the statutes are not explicit as to the optometrist license type, the BO has relied upon portions from those statutes to guide expired license/permits and restorations for its other license/permits. However, the BO notes this has led to inconsistent legal interpretations, implementation issues, and confusion as to how these expired licenses and permits can be renewed. This bill proposes to amend BPC Section 3147 to provide clarity for licenses and permits to be renewed or restored after they expire.

Board of Chiropractic Examiners (BCE). As a result of the BCE's 2017 sunset review, the issue of the BCE's fiscal condition was raised. In the Committee staff's background paper, it was noted that "although the BCE reports that it has maintained a minimum six-month reserve since Fiscal Year (FY) 2012/13, it is concerning that the reserves are declining." As a result, SB 547 (Hill, Chapter 429, Statutes of 2017) temporarily increased the renewal fee for a chiropractor license from \$250 to \$300 and required the BCE to report back on a thorough analysis of its fees. As a result, the BCE conducted a fee audit, and this bill implements many of the recommendations in that audit.

Board of Podiatric Medicine (BPM). The BPM's current fee schedule (excluding initial and renewal fees) has not been increased in over 25 years. As a result, the BPM projected a deficit in FY 2017-2018. This bill will update the BPM's unscheduled fees to address the deficit and bring the fees in-line with the current regulatory costs to the BPM.

Naturopathic Medicine Committee (NMC). During the NMC's 2017 sunset review, the issue of the NMC's fund status was raised. As reported in the Senate Business, Professions and Economic Committee staff background paper in 2017, "due to the addition of personnel, significant pro rata increases, and greater enforcement costs, expenses are outpacing revenue and NMC's reserve is projected to decrease to 10.6 months in FY 2017/18. The Committee is aware of this

situation and plans to pursue additional fees and other initiatives in order to secure its budget future.” This bill revises the fees for NMC to ensure regulatory costs are appropriate.

Board of Vocational Nursing and Psychiatric Technicians (BVNPT). As a result of issues identified during the BVNPT’s two recent sunset reviews, including financial needs, fee structure, budget, and expenditures the BVNPT conducted multiple fee audits to identify if any changes to the fees assessed to licensees for regulatory oversight were necessary. The results of those audits made recommendations to revise the BVNPT’s fee structure. The fee changes which are proposed are based on those audits.

Board of Registered Nursing (BRN). SB 1039 (Hill, Chapter 799, Statutes of 2015) revised the regulatory fees for the BRN. At that time, the BRN conducted a fee audit of all fees and found that the BRN had not been charging enough regulatory or enforcement fees. As a result, the fee for evaluation of credentials for a public health nurse was increased as well. Upon further consideration by the BRN, this bill will reduce the fees for credential verification for a public health nurses and provide a refund for those who had their qualifications evaluated between April 5, 2018, and December 31, 2018.

Cemetery and Funeral Bureau (CFB). In 2015, as a part of the CFB’s sunset review, AB 181 (Bonilla, Chapter 395, Statutes of 2015) merged the Funeral Directors and Embalmers Law and the Cemetery Act into one Cemetery and Funeral Act. As a result of the merger, references to a now repealed section of the BPC are still present in the HSC. This bill removes those outdated references to BPC Section 9600.

California Massage Therapy Council. In 2014, AB 1147 (Bonilla, Chapter 406, Statutes of 2014) established new requirements for certification that all applicants complete a minimum of 500 hours of education from an approved school and pass a massage and bodywork competency assessment examination that is approved by the CAMTC.

The following exams have been approved by the CAMTC: the Massage and Bodywork Licensing Examination ("MBlex"); the National Certification Examination for Therapeutic Massage and Bodywork and the National Certification Examination for Therapeutic Massage if taken prior to February of 2015; and the Board Certification Examination for Therapeutic Massage and Bodywork.

Currently in order to take the MBlex, an individual is required to complete 500 hours of education, which is the certification requirement in California. The New York State Massage Therapy Examination is only available if an individual meets specified educational requirements from New York. The Board Certification Exam in Therapeutic Massage and Bodywork requires 750 hours. The National Certification Exam for Therapeutic Massage and Bodywork (NCETMB) must have been taken on or before February 2015. Therefore, for applicants for certification who have studied in California, under the state's education requirements, the MBlex is the only exam that can be taken to achieve certification.

In order to take the MBlex exam, a candidate must have attended a massage therapy school approved or recognized by the state board or agency authorized to regulate massage therapy. In California, the CAMTC is the body recognized by the Federation of State Massage Therapy Board (the provider of the MBlex). The CAMTC began approving schools in 2016, and is currently in the process of the school approval process.

This bill will suspend the requirement that applicants for certification pass an examination until January 1, 2021. This bill does change the definition of an approved school for purposes of certification.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

According to the Assembly Appropriations Committee, this bill will result in ongoing estimated costs of approximately \$300,000 per year for the VMB to increase its inspections to meet the 20% requirement in this bill, staff costs, inspector training, and travel costs and ongoing revenue increases for the various boards receiving fee increases.

SUPPORT: (Verified 8/28/18)

Board of Chiropractic Examiners
Board of Vocational Nursing and Psychiatric Technicians
California Association of Psychiatric Technicians
Five Branches University
Massage California
Naturopathic Medicine Committee
Nuad Thai and Spa Association
Royal Thai Consulate General
Veterinary Medical Board

OPPOSITION: (Verified 8/28/18)

American Massage Therapy Association
American Massage Therapy Association-California Chapter
City and County of San Francisco

ARGUMENTS IN SUPPORT: Supporters believe that fee structures in this bill are necessary and believe that the VMB will be able to continue its mandate of consumer protection as a result of this bill.

Related to provisions for CAMTC examination, supporters state that the bill will support students who have studied at and graduated from a CAMTC approved school to move forward with their chosen career without unnecessary and unfair impediments from CAMTC. According to supporters, the MBLEx or NCBTMB exams are valuable in determining the education of a massage therapist whose education came from a school other than those approved by CAMTC, but not as an additional requirement.

ARGUMENTS IN OPPOSITION: The City and County of San Francisco state that San Francisco's Public Health Department regulatory construct over massage practitioners in part relies on the state requirement to take and pass an exam. They add that the Department of Public Health "is currently introducing legislation to their local law to exempt [CAMTC-certified] practitioners from needing to get a local permit. This legislation will then create new hurdles for San Francisco to regulate massage practitioners."

The American Massage Therapy Association and the American Massage Therapy Association-California Chapter write that they "do not want to see a reduction in standards as it would reduce the perception of our profession in the healthcare industry..."

ASSEMBLY FLOOR: 61-15, 8/30/18

AYES: Acosta, Aguiar-Curry, Arambula, Baker, Berman, Bloom, Bonta, Burke, Caballero, Calderon, Carrillo, Cervantes, Chau, Chiu, Chu, Cooley, Cooper, Cunningham, Daly, Eggman, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Gloria, Gonzalez Fletcher, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kamlager-Dove, Lackey, Levine, Limón, Low, Maienschein, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Obernolte, O'Donnell, Quirk, Quirk-Silva, Reyes, Rivas, Rodriguez, Rubio, Salas, Santiago, Mark Stone, Thurmond, Weber, Wood, Rendon

NOES: Travis Allen, Bigelow, Brough, Chávez, Choi, Dahle, Flora, Harper,
Kiley, Mathis, Melendez, Patterson, Steinorth, Voepel, Waldron
NO VOTE RECORDED: Chen, Fong, Mayes, Ting

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
8/30/18 20:45:48

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