

SENATE THIRD READING
 SB 1480 (Hill)
 As Amended August 24, 2018
 Majority vote

SENATE VOTE: 34-4

Committee	Votes	Ayes	Noes
Business & Professions	12-1	Low, Bloom, Chiu, Eggman, Gipson, Grayson, Irwin, McCarty, Medina, Mullin, Obernolte, Ting	Brough
Appropriations	12-0	Gonzalez Fletcher, Bloom, Bonta, Calderon, Carrillo, Chau, Eggman, Friedman, Eduardo Garcia, Nazarian, Quirk, Reyes	

SUMMARY: Makes a number of substantive changes to various boards and bureaus within the Department of Consumer Affairs. Raises several types of licensing fees imposed by the Board of Chiropractic Examiners, the Board of Podiatric Medicine, the Board of Vocational Nursing and Psychiatric Technicians, and the Naturopathic Medicine Committee. Modifies the requirements for certification by the California Massage Therapy Council. Authorizes veterinarians to provide specified veterinary care during emergencies.

THIS BILL:

- 1) With respect to the **Department of Consumer Affairs:**
 - a) Requires the Director of the Department to amend the Consumer Protection Enforcement Initiative guidelines to include the category of "allegations of serious harm to a minor" under the "urgent" or "highest priority level".
 - b) Reduces the requirement that boards within the Department meet three times per year to two times per year.
- 2) Establishes the following regulatory fees necessary to carry out the responsibilities required by the **Chiropractic Initiative Act:**
 - a) To apply for a license to practice chiropractic: \$371.
 - b) For the initial license to practice chiropractic: \$186.
 - c) To renew an active or inactive license to practice chiropractic: \$313.
 - d) To apply for approval as a continuing education provider: \$84.
 - e) Biennial continuing education provider renewal fee: \$56.
 - f) To apply for approval of a continuing education course: \$56 per course.

- g) To apply for a satellite office certificate: \$62.
 - h) To renew a satellite office certificate: \$31.
 - i) To apply for a license to practice chiropractic pursuant to Section 9 of the Chiropractic Initiative Act: \$371.
 - j) To apply for a certificate of registration of a chiropractic corporation: \$186.
 - k) To renew a certificate of registration of a chiropractic corporation: \$31.
 - l) To file a chiropractic corporation special report: \$31.
 - m) To apply for approval as a referral service: \$557.
 - n) Fee for an endorsed verification of licensure: \$124.
 - o) For replacement of a lost or destroyed license: \$50.
 - p) For replacement of a satellite office certificate: \$50.
 - q) For replacement of a certificate of registration of a chiropractic corporation: \$50.
 - r) To restore a forfeited or canceled license to practice chiropractic: double the annual renewal fee.
 - s) To apply for approval to serve as a preceptor: \$31.
 - t) To petition for reinstatement of a revoked license: \$371.
 - u) To petition for early termination of probation: \$371.
 - v) To petition for reduction of penalty: \$371.
- 3) With regard to the **Medical Board of California**:
- a) Requires applicants for licensure to pay an application and processing fee.
 - b) Makes various technical and clarifying changes relating to post-graduate medical training.
 - c) Requires a physician who voluntarily cancels his or her license or fails to renew a license to complete three years of postgraduate training before obtaining a new license
 - d) Deletes the statutory sunset on provisions of current law that i) require certain unlicensed persons to register with the Medical Board to perform psychoanalysis and ii) make it unprofessional conduct for a registrant to use controlled substances, certain dangerous drugs, or alcoholic beverages, in a manner that is dangerous for the registrant or to the public.
- 4) Regarding the **Board of Podiatric Medicine**:

- a) Establishes the fee for applying for a certificate to be \$100.
 - b) Establishes the fee for a certificate to be \$100.
 - c) Deletes the fee for an oral examination.
 - d) Until January 1, 2021, establishes the biennial renewal fee to be \$1,100 and establishes that any licensee enrolled in an approved residency program shall be required to pay 50% of the biennial renewal fee.
 - e) After January 1, 2021, reverts the biennial renewal fee to the current amount of \$900.
 - f) Requires several other licensing fees to be set at their current statutory maximums.
- 5) With respect to the **Board of Registered Nursing**:
- a) Authorizes the executive director to adopt a decision entered by default and a stipulation for surrender of a license.
 - b) When a school of nursing has been found by the Board to have not maintain the standard required by the Board, gives the school 120 days to correct any defects before the school is removed from the approved list.
 - c) Requires the fee to be paid by a registered nurse for an evaluation of his or her qualifications to use the title "public health nurse" to be between \$300 and \$1,000.
 - d) Establishes the penalty fee for failure to renew a certificate to practice as a public health nurse to be 50% of the renewal fee in effect at the time, not less than \$62.50 and not more than \$250.
 - e) Requires the Board to refund any registered nurse who paid more than \$300 for an evaluation of his or her qualifications to use the title "public health nurse" between April 1, 2018 and December 31, 2018.
- 6) With respect to vocational nurses under the **Board of Vocational Nursing and Psychiatric Technicians**, establishes the following license fees (to be determined by the Board within the required parameters):
- a) The application fee for licensure by examination for applicants who have completed a California-approved vocational nursing program shall be \$220 to \$300.
 - b) The application fee for licensure by examination for other applicants shall be \$250 to \$330.
 - c) The fee to be paid upon filing an application for licensure by endorsement shall be \$220 to \$300.
 - d) The fee for examination for licensure, after the first examination, shall be \$220 to \$300.
 - e) The biennial renewal fee shall be \$220 to \$300 (with an additional \$5 assessment for educational programs).

- f) The delinquency fee shall be \$110 to \$150.
 - g) The fee for an interim permit shall be \$20 to \$50.
 - h) The fee for a duplicate license is deleted.
 - i) The fee for verification of licensure papers shall be \$100 to \$150.
 - j) The fee for specified post-licensure certifications shall be \$20 to \$50.
- 7) With respect to the **Board of Optometry**, clarifies the renewal process for an expired optometrist license, and further specifies that expired statements of licensure, branch office licenses, and fictitious name permits, may be renewed at any time by filing an application for renewal, paying all accrued and unpaid renewal fees, and paying any delinquency fees determined by the Board.
- 8) With respect to the **Naturopathic Medicine Committee**:
- a) The application fee shall be \$500 to \$600.
 - b) The initial license fee shall be \$1,000 to \$1,200.
 - c) The renewal fee shall be \$1,000 to \$1,200.
 - d) The late renewal fee shall be \$225.
 - e) The fee for a duplicate license shall be \$38.
 - f) The fee for certified license verification shall be \$30.
- 9) With respect to psychiatric technicians under the **Board of Vocational Nursing and Psychiatric Technicians**, establishes the following license fees (to be determined by the Board within the required parameters):
- a) The initial approval and biennial renewal fee for any provider of continuing education or to meet the certification requirements for blood withdrawal shall be \$150 to \$250.
 - b) The application fee for licensure by examination for applicants who have completed a California-approved psychiatric technician program shall be \$265 to \$345.
 - c) The application fee for licensure by examination for other applicants shall be \$295 to \$375.
 - d) The fee to be paid upon filing an application for licensure by endorsement shall be \$220 to \$300.
 - e) The fee for examination for licensure, after the first examination, shall be \$265 to \$345.
 - f) The biennial renewal fee shall be \$220 to \$300.
 - g) The delinquency fee shall be \$110 to \$150.

- h) The fee for an interim permit shall be \$20 to \$50.
- i) The fee for a duplicate license is deleted.
- j) The fee for verification of licensure papers shall be \$20 to \$50.
- k) The fee for specified post-licensure certifications shall be \$20 to \$50.

10) With respect to the **California Massage Therapy Council**:

- a) Provides that an applicant for certification as a massage therapist is eligible, if the applicant completed the required 500 hours of education at a school or school that was approved by the Council, at the time the student's hours were completed.
- b) Suspense the requirement that an applicant for certification as a massage therapist has passed an examination from January 1, 2019 to January 1, 2021.

11) With respect to the **Board of Veterinary Medicine**:

- a) Require the Board to inspect 20% of veterinary premises on an annual basis.
- b) Authorizes a California licensed veterinarian, at a licensed premises that is located within a 25-mile radius of any state of emergency, as specified in Government Code Section 8558 to, in good faith, do both of the following:
 - i) 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,
 - ii) 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.
- c) Requires a veterinarian to make an appropriate record that includes the basis for proceeding in Item b) above, and exempts a veterinarian from liability, as currently provided in Government Code Section 8659 related to emergencies.
- d) Requires the first time a veterinarian prescribes, dispenses, or furnishes a dangerous drug, as defined, to an animal patient in an outpatient setting, to provide in person or through electronic means to the client responsible for the animal, a consultation that includes information about:
 - i) The route of administration, dosage form, dosage, duration or drug therapy, the duration of the effect of the drug, and the common severe adverse effects associated with the use of a short-acting or long-acting drug;
 - ii) Any special directions for proper use and storage; and,

- iii) If available, precautions and relevant warnings provided by the drug's manufacturer including common severe adverse effects of the drug.
 - e) Requires a veterinarian to provide drug documentation if available.
 - f) Authorizes a veterinarian to delegate to a registered veterinary technician or veterinary assistant the task of providing the consultation and drug documentation.
 - g) Requires a note to be made in the animal patient's medical record if the consultation was accepted or declined.
 - h) Revises the current authorization for veterinary medical students to obtain clinical training, as specified.
 - i) Authorizes the Board to issue a probationary veterinary assistant controlled substance permit, as specified.
 - j) 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 Board.
 - k) Requires a graduate of a recognized veterinary college who has performed animal health care tasks otherwise performed by a registered veterinary technician, to discontinue performing those duties effective January 1, 2020, unless they have registered or obtained licensure from the Board.
- 12) Deletes the statutory sunset on the body of law governing common interest development managers, making that body of law permanent.
- 13) Makes other technical and clarifying amendments.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

- 1) Veterinary Medical Board: Ongoing estimated costs of approximately \$300,000 per year for the Veterinary Medical Board to increase its inspections to meet the 20% requirement in the bill, staff costs, inspector training, and travel costs. There will also be additional unknown enforcement-related costs as a result of the increased inspections. (Veterinary Medical Board Contingent Fund).
- 2) Podiatric Board: Ongoing fee revenue increases of approximately \$190,000 annually until January 1, 2021 (Board of Podiatric Medicine Fund).
- 3) Board of Registered Nursing: One-time costs of approximately \$350,000 for reimbursements of fees paid by registered nurses who paid more than \$300 for an application fee through the end of 2018. Provisions that revise the range of fees that Board may charge for an evaluation of qualifications are not expected to result in a revenue impact (Board of Registered Nursing Fund).
- 4) Board of Vocational Nursing and Psychiatric Technicians (BVNPT): Ongoing fee revenue increases of approximately \$4.8 million annually (Vocational Nursing and Psychiatric Technicians Fund).

- 5) Board of Optometry: Minimal revenue impacts (State Optometry Fund).
- 6) Naturopathic Medicine Committee within the Osteopathic Medical Board: Ongoing fee revenue increases of approximately \$90,000 annually (Naturopathic Doctors Fund).
- 7) State Board of Chiropractic Examiners: Ongoing fee revenue increases of approximately \$1.2 million annually (State Board of Chiropractic Examiners Fund).
- 8) Uncertain costs for the Pharmacy Board and the Board of Registered Nursing to employ their own legal counsel. It is unclear whether the cost of doing so will be in addition to current costs. If it is additional, each board will incur costs in excess of \$100,000 annually (special funds).

Background.

Consumer Protection Enforcement Initiative. The DCA created the Consumer Protection Enforcement Initiative (CPEI) in 2010. The goal of this initiative was to reduce the average enforcement completion timeline from 36 months to between 12 and 18 months. Key components of CPEI include administrative changes, ensuring the boards' enforcement programs are sufficiently staffed and have adequate technology to conduct their regulatory functions, and establishing and publishing precise performance targets. This bill aims to strengthen the current program to include "allegations of serious harm to a minor" as a high or urgent priority by July 1, 2019. This should help healthcare boards treat these allegations as a high priority in the investigation process.

California Massage Therapy Council. In 2014, AB 1147 (Bonilla, Chapter 406, Statutes of 2014) eliminated the two-tier system of certification in favor of a single pathway towards certification as a California massage therapist to raise professional standards in California. In order to further standardize the practice of massage therapy, AB 1147 also established new requirements for certification that all applicants complete a minimum of 500 hours of education from an approved school, 100 of which must address anatomy and physiology, contraindications, health and hygiene, and business and ethics and pass a massage and bodywork competency assessment examination that is approved by the California Massage Therapy Council.

The following exams have been approved by the California Massage Therapy Council: 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. The Council is not now, and has never been, involved in the development, scoring, analysis, or administration of any of these exams.

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 California Massage Therapy Council is the body recognized by the Federation of State Massage Therapy Board (the provider of the MBlex).

In recent years, there have been issues raised about the Council's oversight of massage therapy schools. There have been several instances in which students completed their studies while a school was approved by the Council, only to be rejected either by MBlex or the Council because the school was subsequently closed, not approved, or placed under investigation.

In order to ensure that students who completed their studies while a school was approved and in good standing with the Council, this bill deletes the requirement that applicants for certification have passed a massage and body work competency assessment.

Veterinary Medical Board. The Board was established in 1893 and currently licenses and regulates veterinarians, registered veterinary technicians, schools and programs, issues controlled substance use permits and regulates veterinary premises and hospitals through enforcement of the Act. Veterinary medical professionals provide health care to livestock, poultry, and pets from birds, fish, rabbits, hamsters, and snakes to dogs, cats, goats, pigs, horses, and llamas. Currently there are 36 recognized specialties in veterinary medicine, such as surgery, internal medicine, pathology, and ophthalmology. In some cases, drugs and procedures are identical between human and animal medicine.

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 Act, including: adding a probationary license pathway for the controlled substance use permit; requiring students currently receiving veterinary medical education to have specified training prior to working on animals as part of the education process; requiring a graduate of a veterinary medical program to obtain licensure or become registered with the VMB within a specified amount of time upon graduating; requiring a veterinarian to provide specified information to a client upon initial prescribing, dispensing or furnishing of a dangerous drug; and authorizing a veterinarian to provide specified care to an animal without a veterinarian-client patient relationship during an emergency as defined.

Veterinary Assistant Controlled Substance Permit-Probationary License. During the Board's 2013 sunset review process, it was recommended that the Board establish a permitting process for veterinary assistants that have access to controlled substances, both under direct and indirect supervision of a veterinarian, so that the Board can require a fingerprint check and obtain criminal history information from the Department of Justice for those assistants. As a result, SB 304 (Lieu, Chapter 515, Statutes of 2013) established the veterinary assistant controlled substance permit and the appropriate fingerprinting and background checks necessary for the permitting of veterinary assistants in order to ensure the safety of animals receiving medical care, and protect the public from any inappropriate dispensing of controlled substances. However, when the permitting process was established it did not authorize the Board to issue a probationary permit. The Board currently has authority to issue a probationary license to a veterinarian and a registered veterinarian technician. According to information from the Board, it is accruing additional expenses due to the number of veterinary assistant controlled substance permit-applicants being denied based on a prior conviction. When a denial occurs, these applicants are permitted to appeal that denial with the Board, which is both time consuming and costly, especially as the offenses may not pose a substantial risk to the public health. The

appeals process requires assistance from the Office of the Attorney General and Office of Administrative Hearings. The Board contends that offering a probationary pathway will enable these individuals to work, while being monitored by the Board to ensure the probationary terms are being addressed. This bill establishes the pathway for a probationary status for applicants for a veterinary assistant controlled substance permit.

Veterinary Student Exemption. Under current law, (Business and Professions Code Section 4830(a)(4)) veterinary students at the School of Veterinary Medicine of the University of California or the College of Veterinary Medicine of the Western University of Health Sciences who participate in diagnosis or and treatment as part of their educational experience, under direct supervision of a licensed veterinarian are exempt from the Act. Under current law, only students at those specified schools are authorized to practice and obtain the necessary clinical hours required. Current law prohibits out of state students who attend accredited veterinary medical schools from obtaining the same clinical experience. This bill would allow 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.

Emergency Veterinarian Services. The Governor has the authority to issue emergency declarations for state of emergencies and state of war emergencies. Under current law, emergencies may be declared for multiple reasons, including fires, floods, earthquakes, and storms or riots, among others. Under existing law (Government Code Section 8659), a veterinarian or registered veterinary technician who provides services during any state of war emergency, a state of emergency, or a local emergency at the express or implied request of any responsible state or local official or agency shall have no liability for any injury sustained by any animal by reason of those services, regardless of how or under what circumstances or by what cause those injuries are sustained. Recent emergencies in California highlighted the need for veterinarians to be able to treat an animal patient during an emergency (like the recent wildfires of fall 2017) where persons may have had to evacuate quickly without the ability to take essentials including animal medication. This bill would authorize a veterinarian to provide prompt care and treatment or dispense or prescribe a dangerous drug or device, as defined, if they are located within a 25-mile radius a declared emergency. Veterinarians who act under this authorization are required to maintain a record of treatment and attempt to contact the originally prescribing veterinarian.

Veterinary Education. California Code of Regulations, Title 16, Section 2027 provides that a junior or senior student at an accredited veterinary medical school or a graduate of a recognized veterinary college may provide only the identical job tasks with the identical degree of supervision as specified for a Registered Veterinary Technician. According to the Board, this authorization allows a person with a veterinary medical degree to practice the same duties a registered veterinary technician without a license or registration from the Board, and no timeframe for a person functioning in that capacity to become a licensed veterinarian or register with the Board. The Board contends this authorization is not provided for under Business and Professions Code Section 4830 which specifies the exemptions for licensure. This bill proposes to eliminate that authorization on January 1, 2020, by requiring persons providing registered veterinary technician duties as a veterinary medical school graduate, without either a Veterinary or registered veterinary technician license to cease that practice until such time they are licensed by the Board as either a veterinarian or a registered veterinary technician.

Animal Patient/Client Drug Notification. During the Board's October 2017 full board meeting, the Board proposed to include, via the regulatory process, that a patient have the option to request a consultation that includes specified information about the medication being prescribed by a veterinarian when furnishing a dangerous drug to a client, or his or her representative. The information provided by the patient-veterinarian consultation includes: name and description of the drug, information about dosage, potential adverse effects of long or short term drugs, dosage forms, directions for use and storage, actions to take if a dose is missed, precautions and information from the drug manufacturer, if available, and any documentation. In addition, the veterinarian is authorized to delegate this authority to a registered veterinary technician or a veterinary assistant, but the information must be noted in the medical record. The Board voted to support this regulatory proposal; but given that the regulatory process can take 18 months or longer, this bill will require patient consultation to become effective on January 1, 2019. A similar proposal to this language was included in SB 546 (Hill) of 2017. That bill was held in the Senate Committee on Appropriations.

Board of Optometry. The Board oversees the licensure and regulation of optometrists and registered dispensing opticians. As of June 30, 2016, the end of FY 2016, the Board's regulatory population included over 13,000 active licensees throughout the state including: 1) 6,936 optometrists; 2) 1,011 statement of licensures; 3) 353 branch offices; 4) 1,449 fictitious name permits; 5) 1,017 registered dispensing opticians; 6) 970 contact lenses dispensers; 7) 2,261 spectacle lens dispensers; and 8) eight non-resident contact lens dispensers. Each licensing category has its own entry-level requirements. In addition, the Board is also responsible for issuing optometry certifications for Diagnostic Pharmaceutical Agents, Therapeutic Pharmaceutical Agents, Lacrimal Irrigation and Dilation, and Glaucoma. Business and Professions Code Sections 3147 and 3147.6 specify the pathway for expired licenses to be renewed or restored after specific periods. Because the statutes are not explicit as to the optometrist license type, the Board has relied upon portions from those statutes to guide expired license/permits and restorations for its other license/permits. However, the Board 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 Business and Professions Code Section 3147 to include a clear way for the Board's other licenses and permits to be renewed or restored after they expire.

Cemetery and Funeral Bureau. The Cemetery and Funeral Bureau licenses and regulates more than 11,000 licensees in 13 different licensing categories. The Bureau's licensing population includes cemetery brokers, cemetery managers, cemeteries, funeral directors, funeral establishments, embalmers and apprentice embalmers, crematory managers, crematories, and cremated remains disposers. The Bureau has the oversight responsibility for both fiduciary and operational activities of its licensing population and has the statutory authority to enforce the licensing and practice acts in the Bureau along with jurisdiction over specified provisions of the Health and Safety Code dealing specifically with human remains, cemetery, and crematory provisions. In 2015, as a part of the Bureau'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. Prior to regulation as a Bureau, cemetery and funeral issues were handled by two separate entities, the California State Board of Funeral Directors and Embalmers and the California State Cemetery Board, which were created in 1939 and 1949, respectively. The merger resulted in repealing the Cemetery Act and moving the provisions to Business and Professions Code Section 7600 et seq., the new Cemetery and Funeral Act. As a result of the merger, references to a now repealed section of the Business and Professions Code

are still present in the Health and Safety Code. This bill removes those outdated references to Business and Professions Code Section 9600.

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