

Date of Hearing: January 9, 2018

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 888 (Low) – As Amended January 3, 2018

SUBJECT: Board of Vocational Nursing and Psychiatric Technicians of the State of California.

SUMMARY: Requires the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) to delegate the authority to issue default decisions and stipulated surrenders of licenses to its executive officer and corrects an erroneous cross reference.

EXISTING LAW:

- 1) Establishes the BVNPT within the Department of Consumer Affairs (DCA) until January 1, 2018, to license and regulate licensed vocational nurses (LVNs) and psychiatric technicians (PTs) and administer the Vocational Nursing Practice Act and the Psychiatric Technicians Law. (Business and Professions Code (BPC) §§ 2840-2895.5 and §§ 4500-4548)
- 2) Requires the BVNPT to discipline a licensee whose default has been entered or whose case has been heard by the BVNPT and was found guilty. (BPC § 2876)
- 3) Requires the DCA Director to appoint an administrative and enforcement program monitor to the BVNPT no later than March 1, 2016, and until March 1, 2018. (BPC § 2847.5)

FISCAL EFFECT: Unknown. This bill is keyed fiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the author and is intended to build upon last year's Sunset Review bill for the BVNPT. Default decisions are straightforward cases in which a licensee or respondent does not respond to a disciplinary notice or action within the required timeframe. Currently, the BVNPT staff reviews these cases to determine whether they meet the criteria for a default and then mail them to the BVNPT members. The BVNPT members then approve the recommendation and mail them back. Because the BVNPT staff do not exercise discretion when deciding whether to submit a default decision to the BVNPT members (the respondent is either in default or is not), the BVNPT members never disapprove them. The BVNPT notes that it does not currently have statutory authority to delegate the approval—this bill grants that authority.

Background. The BVNPT is responsible for administering the laws related to the education, practice and discipline of Licensed Vocational Nurses (LVNs) and Psychiatric Technicians (PTs). The BVNPT regulates over 120,000 LVNs and 11,000 PTs, the largest groups of LVNs and PTs in the nation.

Sunset Review 2015-2017. Each year, the Assembly Business and Professions Committee and Senate Business, Professions and Economic Development Committee (Committees) conduct joint oversight hearings of various licensing entities under the DCA. Primary concerns for the 2017 Joint Sunrise Review Hearing for the BVNPT were related to poor enforcement timelines and administrative inefficiencies. Due to these issues, which have persisted since the BVNPT's

2015 Sunset Review, an administrative and enforcement program monitor was placed at the BVNPT in 2016.

In 2017, the monitor noted that one of the improvements that could be made is to delegate the authority to approve default decisions and stipulated settlements to the BVNPT's executive officer. Currently, there are five other healing arts boards that delegate the authority to approve default decisions to the executive officer (the Medical Board of California, the Osteopathic Medical Board, the Naturopathic Medicine Committee, the Board of Podiatric Medicine, and the Speech Language Pathology and Audiology and Hearing Aid Dispensers Board).

Using language consistent with the Medical Practice Act, this bill requires the BVNPT to delegate the authority to approve of default decisions and stipulated surrenders to its executive officer. While the BVNPT already delegates the authority to adopt stipulated surrender of licenses in regulation, this bill clarifies that authority, consistent with the Medical Board.

Prior Related Legislation. AB 1229 (Low), Chapter 586, Statutes of 2017 extended the operation of the BVNPT until January 1, 2021; authorized the Governor to appoint an executive officer until January 1, 2020; specified that, if the BVNPT becomes inoperative or is repealed, the director of the DCA is authorized to assume the duties of the BVNPT; required the BVNPT to submit specified reports to the Legislature until 2020; authorized the DCA director to evaluate the BVNPT's licensing program; required BVNPT staff to meet periodically with the DCA's Division of Investigation; and authorized the DCA director to determine the need for and to implement necessary changes to the BVNPT's enforcement program.

SB 797 (Hill), Chapter 653, Statutes of 2017 would have required the BVNPT to delegate the authority to issue default decisions and stipulated surrenders of licenses to its executive officer allowed the BVNPT to sunset as of January 1, 2018. *NOTE: SB 797 was substantially amended to address a different topic.*

REGISTERED SUPPORT:

None on file.

REGISTERED OPPOSITION:

None on file.

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