

Date of Hearing: September 14, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 1706 (Committee on Business and Professions) – As Amended September 6, 2017

SUBJECT: Healing arts: chiropractic practice: speech-language pathology and audiology and hearing aid dispensing: occupational therapy: physical therapy.

SUMMARY: Requires legislative review of the Board of Chiropractic Examiners (BCE) before January 1, 2022; extends the operation of the Speech-Language Pathology Audiology and Hearing Aid Dispensers Board (SLPAHADB), Physical Therapy Board of California (PTBC) and California Board of Occupational Therapy (CBOT) until 2022; and makes changes to the entities' practice acts intended to improve their efficiency and effectiveness.

EXISTING LAW:

- 1) Establishes the BCE to license and regulate the practice of chiropractic. (The Chiropractic Initiative Act of California, an uncodified initiative act approved by electors November 7, 1922)
- 2) Requires the BCE to be reviewed as if it were scheduled to be repealed on January 1, 2018. (Business and Professions Code (BPC) § 1000)
- 3) Establishes the SLPAHADB within the Department of Consumer Affairs (DCA) until January 1, 2018, to license and regulate speech-language pathologists, speech language pathology assistants, speech-language pathology aides, audiologists, dispensing audiologists and hearing aid dispensers. (BPC § 2530 et seq.)
- 4) Establishes the CBOT within the DCA until January 1, 2018, to license and regulate occupational therapists (OTs) and occupational therapy assistants (OTAs). (BPC § 3716)
- 5) Establishes the PTBC within the DCA until January 1, 2018, to license and regulate physical therapists (PTs) and physical therapist assistants (PTAs). (BPC § 2602; 2607.5)

THIS BILL:

- 1) Extends the date for legislative review of the BCE to January 1, 2022.
- 2) Extends the operation of the SLPAHADB until January 1, 2022, makes technical changes, and specifies that money in the SLPAHAD Fund shall be available upon appropriation by the Legislature.
- 3) Extends the operation of the PTBC and the PTBC's authority to appoint an executive officer until January 1, 2022. Specifies that money in the Physical Therapy Fund is available only upon appropriation by the Legislature
- 4) Clarifies the PTBC's retired license authority by deleting practice act authority as of January 1, 2019, allowing PTBC to rely on the general provisions.

- 5) Exempts an applicant from the requirement to achieve a board-specified score on the Test of English as a Foreign Language (TOEFL) if the applicant has been awarded a bachelor's degree or higher in a PT educational program from a college, university, or professional training school in Australia, any part of Canada other than Quebec, Ireland, New Zealand, the United Kingdom, the U.S., or another English-speaking country specified by PTBC.
- 6) Deletes a restriction under current law on PTBC's use of fees and deletes a requirement under current law for PTBC to report to Legislature every time fees are increased.
- 7) Corrects an incorrect cross-reference in the Physical Therapy Practice Act.
- 8) Extends the operation of the CBOT until January 1, 2022.
- 9) Adds OTs to the list of professions for which unlicensed practice can be prosecuted as an infraction.
- 10) Authorizes OTs who have earned a doctoral degree in occupational therapy (OTD) or, after adoption of regulations, a doctoral degree in a related area of practice or study, to:
 - a) Use the initials OTD, DrPH, PhD, or EdD, in a written communication, following the licensee's name.
 - b) Use the title "Doctor" or the abbreviation "Dr." in a written communication, preceding the licensee's name, if the licensee's name is immediately followed by an unabbreviated specification of the applicable doctoral degree held by the licensee.
 - c) Use the title "Doctor" in a spoken communication, preceding the licensee's name, if the licensee specifies that he or she is an OT practitioner.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) Ongoing costs of \$2 million per year for the continued operation of the Speech-Language Pathology Audiology and Hearing Aid Dispensers Board (Speech-Language Pathology and Audiology and Hearing Aid Dispensers Fund).
- 2) Ongoing costs of \$5 million per year for the continued operation of the Physical Therapy Board of California (Physical Therapy Fund).
- 3) Minor costs to adopt regulations by the Physical Therapy Board of California (Physical Therapy Fund).
- 4) Ongoing costs of \$2 million per year for the continued operation of the California Board of Occupational Therapy (Occupational Therapy Fund).
- 5) Minor costs to adopt regulations and take enforcement actions, due to changes in the bill, for the Board of Occupational Therapy (Occupational Therapy Fund).

COMMENTS:

Purpose. Legislation is needed this year to extend the sunset date for the boards set to be repealed on January 1, 2018. The legislative changes reflected in this bill are solutions to issues

raised in the boards' sunset review reports, committee staff background papers, and during the boards' sunset review hearings on February 27, 2017 and March 6, 2017.

Background. As noted above, in February and March of this year the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee (Committees) conducted joint oversight hearings. The purpose of the hearings was to review 12 regulatory boards within the DCA and one regulatory entity outside of the DCA. The sunset bills are intended to implement legislative changes recommended in the respective background reports drafted by the Committees for the agencies reviewed this year. During the sunset review hearings, the Committees take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency is allowed to sunset unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency.

The Sunset Review Process. The sunset review process provides a formal mechanism for the DCA, the Legislature, the regulatory boards, bureaus and committees, interested parties, and stakeholders to make recommendations for improvements to the authority of consumer protection boards and bureaus. This is performed on a standard four-year cycle and was mandated by SB 2036 (McCorquodale), Chapter 908, Statutes of 1994. Each eligible agency is required to submit to the Committees a report covering the entire period since last reviewed that includes, among other things, the purpose and necessity of the agency and any recommendations of the agency for changes or reorganization in order to better fulfill its purpose.

BCE. The purpose of the BCE is to protect California consumers from fraudulent, negligent, or incompetent practices of chiropractic care. The BCE was established by an initiative act and thus does not have a sunset date. However, it is reviewed every four years as if it had a sunset, keeping in practice with other boards. The BCE was last reviewed in 2013. This bill extends the BCE's review date.

SLPAHADB. The purpose of the SLPAHADB is to protect California consumers by promoting standards and enforcing the laws and regulations that ensure the qualifications and competence of providers of speech-language pathology, audiology and hearing aid dispensing services. The SLPAHADB was last reviewed in 2013. This bill extends the SLPAHADB and contains several of the technical fixes requested in the SLPAHADB's *2016 Sunset Review Report* (pages 75-84).

CBOT. The purpose of the CBOT is to protect consumers through regulation of the practice of occupational therapy in California. Specifically, the CBOT administers the licensing and enforcement programs for occupational therapists (OTs), occupational therapy assistants (OTAs), and occupational therapy aides. The CBOT was last reviewed in 2013. This bill extends the CBOT and contains several of the technical fixes requested in the CBOT's *2016 Sunset Review Report* (Attachment F).

PTBC. The purpose of the PTBC is to protect consumers from incompetent, unprofessional, and fraudulent practice through regulation of practitioners. Specifically, the PTBC administers the licensing and enforcement programs for physical therapists (PTs), physical therapist assistants (PTAs), and unlicensed physical therapy aides. The PTBC was last reviewed in 2013. This bill extends the PTBC and contains several of the technical fixes requested in the PTBC's *2016 Sunset Review Report* (pages 94-96).

Current Related Legislation. AB 1229 (Low) of the current Legislative Session extends the operation of the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) until

January 1, 2021; authorizes the Governor to appoint an executive officer until January 1, 2020; specifies that, if the BVNPT becomes inoperative or is repealed, the director of the Department of Consumer Affairs (DCA) is authorized to assume the duties of the BVNPT; requires the BVNPT to submit specified reports to the Legislature until 2020; authorizes the DCA director to evaluate the BVNPT's licensing program; requires BVNPT staff to meet periodically with the DCA's Division of Investigation; and authorizes the DCA director to determine the need for and to implement necessary changes to the BVNPT's enforcement program. *Pursuant to Assembly Rule 77.2, AB 1229 is also set to be heard in this Committee today.*

AB 1705 (Low) of the current Legislative Session establishes title protection for guide dog instructors upon the sunset of the State Board of Guide Dogs for the Blind on January 1, 2018. *Pursuant to Assembly Rule 77.2, AB 1705 is also set to be heard in this Committee today.*

AB 1708 (Low) of the current Legislative Session extends the operation of the California Board of Optometry (CBO) and the authority to appoint an executive officer to January 1, 2022; clarifies the Board's inspection authority; permits the CBO to query the National Practitioner Data Bank (NPDB) and collect a fee for that purpose; revises the CBO's review for out-of-state applicants; subjects the Optometry Fund to appropriation by the Legislature; and deletes the CBO's requirement to issue a Letter of Sponsorship. *Pursuant to Assembly Rule 77.2, AB 1708 is also set to be heard in this Committee today.*

SB 547 (Hill) of the current Legislative Session, among other technical changes requested by various DCA entities, extends the operation of the California Council for Interior design until January 1, 2022, and raises the fees for several DCA entities projecting budget deficits, including the BCE. *STATUS: As of September 14, 2017, SB 547 is pending on the Assembly Floor.*

SB 796 (Hill) of the current Legislative Session requires the DCA to review and update its uniform standards for substance-abusing healing arts licensees; extends the Respiratory Care Board until January 1, 2022; extends the Naturopathic Medicine Committee (NMC) until January 1, 2022; updates continuing education (CE) requirements for Naturopathic Doctors (NDs) and CE providers; requires naturopathic medical programs to evaluate an ND applicant's military training for credit; and codifies the NMC's fees established in regulation. *STATUS: As of September 14, 2017, SB 796 is pending engrossment and enrollment.*

SB 797 (Hill) of the current Legislative Session would have allowed the BVNPT to sunset as of January 1, 2018. *STATUS: SB 797 was substantially amended and no longer deals with the BVNPT.*

SB 798 (Hill) of the current Legislative Session extends the operation of the Medical Board of California (MBC) and Medical Practice Act until 2022 and subjects the Osteopathic Medical Board of California (OMBC) and Osteopathic Act (OMBC Act) to review by the appropriate policy committees of the Legislature, to be performed as if the OMBC Act were scheduled to be repealed as of 2022, and makes various changes to the MBC Act and OMBC Act intended to improve oversight of physicians and surgeons and osteopathic physicians and surgeons. *STATUS: As of September 14, 2017, SB 798 is pending engrossment and enrollment.*

SB 799 (Hill) of the current Legislative Session extends the operation of the Board of Registered Nursing (BRN) until January 1, 2022; increases the threshold for insurers that provide liability insurance to Registered Nurses (RNs) to report specified settlement or arbitration awards to the

BRN; defines "insurer" to include a licensee or the licensee's counsel; requires the California Research Bureau to prepare and deliver a report to the Legislature by January 1, 2019, that evaluates RN complaint reporting mechanisms; requires the BRN to report to the Legislature its plan for the approval of continuing education opportunities and its progress implementing the plan; and makes other technical and clarifying changes. *STATUS: As of September 14, 2017, SB 799 is pending engrossment and enrollment.*

Prior Related Legislation. AB 1707 (Low), Chapter 174, Statutes of 2017 delayed the date by which the Dental Board of California (DBC) must determine an alternative way, other than the current exam, to measure registered dental assistant (RDA) competency and included an urgency clause. *NOTE: AB 1707 was substantially amended to delete the SLPAHADB extension contained in this bill and inserted the current language.*

REGISTERED SUPPORT:

California Academy of Audiology
Occupational Therapy Association of California

REGISTERED OPPOSITION:

None on file.

Analysis Prepared by: Vincent Chee / B. & P. / (916) 319-3301