

Date of Hearing: April 25, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

AB 1708 (Committee on Business and Professions) – As Introduced March 2, 2017

SUBJECT: State Board of Optometry.

SUMMARY: Extends the sunset date of the Board of Optometry (Board) and its authority to appoint an executive officer by four years, until January 1, 2022.

EXISTING LAW:

- 1) Establishes the Board under the jurisdiction of the Department of Consumer Affairs (DCA) for the licensure and regulation of optometrists, registered dispensing opticians, contact lens dispensers, spectacle lens dispensers, and nonresident contact lens dispensers. (Business and Professions Code (BPC) Sections 3000 *et seq.* and 2550 *et seq.*)
- 2) Subjects the Board to review by the appropriate policy committees of the Legislature and sunsets the Board on January 1, 2018. (BPC Section 3010.5)
- 3) Requires the Board to consist of eleven members, five of whom are public members, and one member is a registered dispensing optician. (BPC Section 3010.5(a))
- 4) States that protection of the public is the highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions. (BPC Section 3010.1)
- 5) Establishes under the Board, a dispensing optician committee to advise and make recommendations to the Board regarding the regulation of dispensing opticians, spectacle lens dispensers, and contact lens dispensers; requires the Committee to consist of five members, of which one must be a registered dispensing optician; one of whom shall be a spectacle lens dispenser or contact lens dispenser; two of whom shall be public members, and one of whom shall be a member of the board and, requires the Board to make the initial appointments, as specified. (BPC Section 3020)
- 6) Defines advertising as including the use of a newspaper, magazine, or other publication, book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, tag, window display, store sign, radio announcement, or any other means or methods employed to bring to the attention of the public the practice of optometry or the prescribing, fitting, or sale in connection with lenses, frames, or other accessories or appurtenances. (BPC Section 3006)

THIS BILL:

- 1) Extends the sunset date of the Board by four years, until January 1, 2022.
- 2) Extends the Board's authority to appoint an executive office by four years, until January 1, 2022.
- 3) Includes "internet" in reference to advertising.

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

COMMENTS:

Purpose. Unless legislation is carried this year to extend the sunset date for the Board, it will be repealed on January 1, 2018. The legislative changes reflected in this bill are solutions to issues raised concerning the Board in the Assembly Committee on Business and Professions' staff Background Paper and during its sunset review hearing on February 27, 2017.

Background. *Board of Optometry.* In 1913, a new Optometry Practice Act was enacted creating the current Board, defining its duties and powers, and prescribing a penalty for a violation of the practice act. Today, the Board is responsible for the licensure and regulation of much of the optometry profession in California including the recent addition of Registered Dispensing Opticians. As of 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. As a result of AB 684 (Alejo and Bonilla), Chapter 405, Statutes of 2015, the regulation of registered dispensing opticians was transferred from the jurisdiction of the Medical Board of California to the Board. This transition increased the regulatory and oversight responsibilities of the Board. The Board was last reviewed in 2013 and was granted a four-year sunset extension at that time.

Joint Oversight Hearings and Sunset Review of DCA Licensing Boards. In February and March of 2017, the Assembly Business and Professions Committee and the Senate Business, Professions and Economic Development Committee (Committees) conducted multiple joint oversight hearings 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 that 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. 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 legislation pertaining to this bill is a result of the issues raised during the sunset review hearing and those issues addressed in the Committee's staff background paper on the Board. This bill will simply extend the Board by four years, until January 1, 2022 and its authority to appoint an executive officer, and includes "internet" in references relative to advertising.

Current Related Legislation. AB 443 (Salas) of the current legislative session, requires the Board to provide a notification to individuals who are required to retake the initial licensing examination in order to have their license reinstated after a suspension or revocation in an effort to ensure these individuals who have lawfully served their sentence and are deemed fit to practice. *STATUS: This bill is currently pending in the Assembly Committee on Business and Professions.*

Prior Related Legislation. SB 1478 (Committee on Business, Professions and Economic Development) Chapter 489, Statutes of 2016, made numerous minor, technical, or non-substantive changes to various provisions pertaining to the health-related regulatory boards of the Department of Consumer Affairs (DCA).

AB 684 (Alejo and Bonilla) Chapter 405, Statutes of 2015, authorized the establishment of landlord-tenant relationships between a registered dispensing optician (RDO), optometrist and an optical company as specified; transfers the regulation of RDOs from the Medical Board of California (MBC) to the California State Board of Optometry (CBO); replaced an optometrist with a RDO on the CBO; establishes a RDO advisory committee; and establishes a three-year period for the transition of direct employment of optometrists to leasing arrangements.

SB 821 (Committee on Business, Professions and Economic Development) Chapter 473, Statutes of 2013 made several technical and noncontroversial changes to provisions within the BPC related to the regulation of the Dental Board of California, the Board, Board of Behavioral Sciences, and Board of Pharmacy, as well as dental hygienists regulated under the Welfare and Institutions Code, as specified.

SB 305 (Lieu), Chapter 516, Statutes of 2013, extended until January 1, 2018, the sunset dates for the provisions establishing the Naturopathic Medicine Committee, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board, The Board of Occupational Therapy, the Physical Therapy Board of California, the Board, and the Respiratory Care Board of California, extended the term of specified executive officers; provided that certain acts of sexual abuse or misconduct may result in denial or revocation of licensure, or may be deemed unprofessional conduct by the Board; and specified that any board, committee or bureau regulated by DCA is authorized to receive specified criminal records needed to complete an application for licensure, as specified.

ARGUMENTS IN SUPPORT:

None on file.

ARGUMENTS IN OPPOSITION:

None on file.

REGISTERED SUPPORT:

None on file.

REGISTERED OPPOSITION:

None on file.

Analysis Prepared by: Elissa Silva / B. & P. / 916-319-3301