# California State Assembly

## BUSINESS AND PROFESSIONS

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# AGENDA

Tuesday, June 11, 2024
9:30 a.m. -- 1021 O Street, Room 1100

## BILLS HEARD IN FILE ORDER

| | | | |
|---|---|---|---|
| 1. | SB 552 | Newman | Public safety: pools and spas. |
| 2. | SB 607 | Portantino | Controlled substances. |
| 3. | SB 820 | Alvarado-Gil | Cannabis: enforcement: seizure of property. |
| 4. | SB 1015 | Cortese | Nursing schools and programs. |
| 5. | SB 1024* | Ochoa Bogh | Healing arts: Board of Behavioral Sciences: licensees and registrants. |
| 6. | SB 1067 | Smallwood-Cuevas | Healing arts: expedited licensure process: medically underserved area or population. |
| 7. | SB 1109 | Bradford | Cannabis: demographic information of license applicants. |
| 8. | SB 1225 | Jones | Real estate appraisers: disciplinary information: petitions. |

* Proposed for Consent

Date of Hearing: June 11, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 552 (Newman) – As Amended January 3, 2024

**NOTE:** This bill is double referred and if passed by this Committee will be re-referred to the Assembly Housing Committee.

**SENATE VOTE**: 39-0

**SUBJECT**: Public safety: pools and spas

**SUMMARY**: Revises the requirements for a home inspector when conducting a home inspection of a private-single family home with a pool or spa and updates which drowning prevention features can be combined to comply with the Swimming Pool Safety Act.

**EXISTING LAW**:

1) Defines "home inspection" as a noninvasive, physical examination, performed for a fee in connection with a transfer of real property, of the mechanical, electrical, or plumbing systems or the structural and essential components of a residential dwelling of one to four units designed to identify material defects in those systems, structures, and components. (HSC § 7195(a)(1))

2) Specifies that in connection with the transfer of real property with a swimming pool or spa, an appropriate inspection shall include a noninvasive physical examination of the pool or spa and dwelling for the purpose of identifying which, if any, drowning prevention safety features the pool or spa is equipped with. (HSC § 7195(a)(2))

3) Defines "home inspection report" as a written report prepared for a fee and issued after a home inspection. In a dwelling with a pool or spa, the report shall identify which, if any, drowning prevention safety features the pool or spa is equipped with and shall specifically state if the pool or spa has fewer than two of the drowning prevention safety features specified in law.

4) Specifies that except as provided, when a building permit is issued for the construction of a new swimming pool or spa or the remodeling of an existing swimming pool or spa at a private single-family home, the respective swimming pool or spa shall be equipped with at least two of the following seven drowning prevention safety features:

    a) An enclosure (a fence, wall, or other barrier) that isolates the swimming pool or spa from the private single-family home.

    b) Removable mesh fencing that meets American Society for Testing and Materials (ASTM) Specifications F2286 standards in conjunction with a gate that is self-closing and self-latching and can accommodate a key lockable device.

c) An approved safety pool cover that is a manually or power operated and meets all of the performance standards of the ASTM in compliance with standard F1346-91.

d) Exit alarms on the private single-family home's doors that provide direct access to the swimming pool or spa. The exit alarm may cause either an alarm noise or a verbal warning, such as a repeating notification that "the door to the pool is open."

e) A self-closing, self-latching device with a release mechanism placed no lower than 54 inches above the floor on the private single-family home's doors providing direct access to the swimming pool or spa.

f) An alarm that, when placed in a swimming pool or spa, will sound upon detection of accidental or unauthorized entrance into the water. The alarm shall meet and be independently certified to the ASTM Standard F2208 "Standard Safety Specification for Residential Pool Alarms," which includes surface motion, pressure, sonar, laser, and infrared type alarms. A swimming protection alarm feature designed for individual use, including an alarm attached to a child that sounds when the child exceeds a certain distance or becomes submerged in water, is not a qualifying drowning prevention safety feature.

g) Other means of protection, if the degree of protection afforded is equal to or greater than that afforded by any of the features set forth above and has been independently verified by an approved testing laboratory as meeting standards for those features established by the ASTM or the American Society of Mechanical Engineers (ASME).

**THIS BILL**:

5) Requires a home inspection and home inspection report to identify which, if any, drowning prevention safety features a pool or spa is equipped with that are in safe repair, operable as designed, and, if applicable, appropriately labeled, as required.

6) States that neither requirement above requires a determination as to whether a pool safety feature meets the specifications referenced in statute.

7) Revises the standards for the drowning prevention safety features enumerated in the Swimming Pool Safety Act, as follows:

   a) Requires an approved safety pool cover to be accompanied by a label verifying that the cover meets the specifications of the ASTM F1346-91 standard, is in good repair, and can be opened and closed by automated mechanics.

   b) Requires exit alarms on the home's doors to be accompanied by exit alarms on windows that also provide direct access to the swimming pool or spa.

   c) Requires a pool alarm that, when placed in a swimming pool or spa, will sound upon detection of accidental or unauthorized entrance into the water, to be in good repair and operable as designed.

d) Allow other means of protection, if the degree of protection afforded is equal to or greater than that afforded by any of the features above and has been independently verified by another nationally recognized standards development organization and is accompanied by a label verifying that the protection meets those standards.

8) Specifies that the requirement to have at least two drowning prevention safety features cannot be satisfied by any of the following combinations:

a) An exit alarm and a self-closing, self-latching device on the same door.

b) An exit alarm and a door latch on separate doors.

c) A safety pool cover and a pool alarm.

9) Corrects outdated references to the American Society of Testing Materials (ASTM), who has since changed its name to ASTM International.

10) Makes other clarifying and conforming changes.

**FISCAL EFFECT**: Pursuant to Senate Rule 28.8, no significant state costs anticipated.

**COMMENTS**:

**Purpose**. This bill is sponsored by *California Real Estate Inspection Association* (CREIA) and the *California Coalition for Children's Safety and Health.* According to the author:

> Drowning remains the leading cause of death for California children aged 4 and under, with roughly 75% of fatal childhood drownings occurring at home pools or spas. To guard against these tragedies, SB 442 (Newman, 2017) expanded California's landmark Swimming Pool Safety Act to require at least two anti-drowning safety devices in place at residential pools, such as pool covers or alarms. SB 552 provides technical cleanup amendments that clarify original intent, update outdated references, and close gaps in implementation, thereby ensuring that critical pool safety features are properly and effectively employed to better prevent childhood deaths and injuries.

**Background**.

According to the Centers for Disease Control and Prevention (CDC), drowning is the leading cause of death of children between the ages of one and four and the second leading cause of death for children between the ages of five and fourteen.[1] The CDC estimates that there are 11 fatal and 22 nonfatal drownings per day in the United States.

The Swimming Pool Safety Act (Act), currently requires, as a condition of a building permit, that private, single family homes with swimming pools be equipped with at least two

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[1] Centers for Disease Control and Prevention. (2024, February 20). *Drowning Facts.* https://www.cdc.gov/drowning/data-research/facts/index.html

drowning prevention safety features (e.g. enclosure, cover, or alarms). The homeowner may select two or more safety features from seven that are enumerated in the Act.

This bill would revise the standards for three drowning prevention safety features enumerated in the Act and allow other means of protection, as specified, that have been independently verified by another nationally recognized standards development organization (in addition to those verified by the ASTM or the American Society of Mechanical Engineers). Additionally, this bill closes a loophole in the Act, which unintentionally allows for combinations of drowning prevention safety features that do not improve safety. For example, having an exit alarm and a self-closing, self-latching device on the same door would currently satisfy the Act's requirement to have two downing prevention safety features installed. The Act falls within the scope of the Assembly Housing Committee, where this bill is double referred. If passed by this Committee, outstanding concerns may be addressed in the subsequent policy committee.

Additionally, existing law requires home inspectors to conduct a noninvasive physical examination of the pool or spa and dwelling for the purpose of identifying which, if any, drowning prevention safety features the pool or spa is equipped with. Moreover, current law specifies that four of the seven drowning prevention safety features are permitted if they meet specific ASTM standards. According to the author, this language has been interpreted as requiring home inspectors to assess whether the drowning prevention safety features comply with ASTM standards per law, which cannot be done noninvasively. The author's office provides the following example: pool covers must meet ASTM Standard F1346-91, which, in part, requires the ability to hold at least 485 pounds. According to the author's office, it is not possible for a home inspector to test the weight that a pool cover can withstand without the risk of damaging it. This bill would clarify that home inspectors are only required to ensure that drowning prevention safety features are in good repair, work as intended, and are appropriately labeled, as required.

**Current Related Legislation**.

*AB 2866 (Pellerin)* would require child daycare facilities regulated by the California Department of Social Services be subject to the Swimming Pool Safety Act. AB 2866 is pending in the Senate Health Committee.

**Prior Related Legislation**.

*SB 855 (Newman), Chapter 817, Statutes of 2022,* requires the Department of Public Health to establish the Childhood Drowning Data Collection Pilot Program (CDDCP) and report its findings to the Legislature, develop a Water Safety Action Plan for Children, and develop a standardized electronic form for counties to use in reporting drowning statistics.

*SB 442 (Newman), Chapter 670, Statutes of 2017*, requires newly constructed or remodeled swimming pools or spas at private single-family residences to incorporate at least two of seven specified drowning prevention safety features and additionally requires home inspections conducted as part of the transfer of a property with a pool or spa to include an assessment of whether the pool is equipped with adequate drowning prevention features.

*AB 470 (Chu) of 2016* was identical to SB 422 (Newman). AB 470 was vetoed by the Governor.

*AB 299 (Brown) of 2015* would have required the California Department of Public Health to develop a submersion incident form for nonfatal and fatal drowning events. AB 299 died in the Assembly Appropriations Committee.

*AB 2977 (Mullin), Chapter 478, Statutes of 2006,* required new and remodeled pools and spas to provide at least one safety feature from a list of eligible features, added mesh fences and swimming pool alarms to the list of enumerated drowning prevention safety features in the Swimming Pool Safety Act, and required remodeled pools and spas to cover drains with an anti-entrapment grate.

*AB 3305 (Sentencich), Chapter 925, Statutes of 1996*, enacted the Swimming Pool Safety Act to establish certain safety standards requiring swimming pool enclosures, safety pool covers, or exit alarms, as defined, or certain other means of protection, and would require each swimming pool for which a construction permit is issued on or after January 1, 1998, and that is located at a private, single-family home to meet at least one of these safety standards.

**ARGUMENTS IN SUPPORT**:

The *CREIA* writes in support of this bill as a co-sponsor:

> As currently written, Business and Professions Code Section 7195 (a)(2) creates confusion regarding the noninvasive physical examination of the pool or spa. The text states that the examination shall be for the purpose of identifying which, if any, of the seven drowning prevention safety features listed in subdivision (a) of Section 115922 of the Health and Safety Code the pool or spa is equipped.
>
> However, the referenced Health and Safety Code Section 115922 includes language which is being interpreted as requiring more than a noninvasive physical examination to identify which if any of seven pool safety features are present. For four features [mesh fencing, pool/spa cover, pool alarms, and other means of protection], the text references compliance with specific standards that are not attainable by a non-invasive, physical examination [...] CREIA believes these revisions will be consistent with, and in furtherance of, the objective of SB 442 that the home inspection includes a physical examination of the pool to determine which, if any, of the seven drowning prevention features described in existing law it is equipped with, and that the home inspection report identifies which of these drowning prevention features the pool is equipped with and specifically states if fewer than two are installed.

**ARGUMENTS IN OPPOSITION**:

The *California Building Officials* (CALBO) write in opposition:

> CALBO strongly believes that improving public health and safety through updated building codes is necessary to consider new technology and best practices across the industry. However, this must be done in a cost-efficient, transparent, and feasible process which is offered through the regulatory process. This bill would unfortunately circumvent the process by mandating in state

law that homeowners wishing to purchase a pool cover must only purchase an automatic pool cover. CALBO believes that any kind of safety measure that has been agreed upon by experts in the field to promote public health and safety should not be limited to one specific type of technology over another. If the industry is learning that there are safer options, they should be discussed in the regulatory process and the codes should be updated accordingly.

**IMPLEMENTATION ISSUES**:

This bill would specify that home inspectors are not required to determine whether a downing prevention safety feature meets the "specifications" referenced in the Act. The author may wish to clarify that the term "specifications" refers to ASTM standards, and not other parameters specified in law. For example, a self-closing, self-latching device with a release mechanism is required to be placed no lower than 54 includes above the floor. Further clarification would help ensure that such requirements are not unintentionally waived.

**REGISTERED SUPPORT**:

California Coalition for Children's Safety and Health *(Co-Sponsor)*
California Real Estate Inspection Association *(Co-Sponsor)*
California Pool & Spa Association
San Francisco Baykeeper

**REGISTERED OPPOSITION**:

American Academy of Pediatrics, California
California Building Officials *(Unless Amended)*
One individual

Analysis Prepared by: Kaitlin Curry / B. & P. / (916) 319-3301

Date of Hearing: June 11, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 607 (Portantino) – As Amended January 4, 2024

**SENATE VOTE**: 39-0

**SUBJECT**: Controlled substances

**SUMMARY**: Expands the existing requirement for prescribers to discuss information about the risks associated with opioid use and addiction when issuing or dispensing opioids to a minor patient to require that discussion to occur regardless of the patient's age, with exceptions.

**EXISTING LAW**:

1) Allows only a physician, dentist, podiatrist, or veterinarian; or, within a specified scope of practice, a naturopathic doctor, pharmacist, registered nurse, certified nurse-midwife, nurse practitioner, physician assistant, optometrist, or out-of-state prescriber; to write or issue a prescription. (Health and Safety Code (HSC) § 11150)

2) States that a prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of their professional practice, and that the responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. (HSC § 11153)

3) Prohibits medical professionals from prescribing, administering, or dispensing a controlled substance to a person with substance use disorder, as defined. (HSC § 11156)

4) Requires a prescriber to discuss with a minor, or the minor's representative, prior to dispensing or issuing a prescription for a controlled substance containing an opioid for the first time, all of the following information, with specified exceptions:

   a) The risks of addiction and overdose associated with the use of opioids.

   b) The increased risk of addiction to an opioid to an individual who is suffering from both mental and substance abuse disorders.

   c) The danger of taking an opioid with a benzodiazepine, alcohol, or another central nervous system depressant.

   d) Any other information required by law.

   (HSC § 11158.1)

5) Lists a number of required features that must be included for all prescription forms for controlled substances, including fraud-prevention identifiers, printing information, and information relating to the prescribing practitioner. (HSC § 11162.1)

6) Requires all prescriptions and dispensations of controlled substances to meet a series of requirements including use of a controlled substance prescription form, presence of a signature and date in ink, and the address of the patient. (HSC § 11164)

7) Establishes the Controlled Substance Utilization Review and Evaluation System (CURES), a prescription drug monitoring program maintained by the Department of Justice to collect records of dispensed controlled substances for review by licensed prescribers and dispensers, regulatory investigators, law enforcement, and researchers. (HSC § 11165)

8) Requires health care practitioners in receipt of a federal Drug Enforcement Administration registration providing authorization to prescribe controlled substances, as well as pharmacists, to register for access to the CURES database. (HSC § 11165.1)

9) Requires health care practitioners to consult the CURES database to review a patient's controlled substance history before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every six months thereafter if the substance remains part of the treatment of the patient. (HSC § 11165.4)

10) Requires schools and youth sports organizations to annually provide athletes of all ages, as well as the parents or guardians of athletes 17 years of age or younger, with a copy of the Opioid Factsheet for Patients published by the Centers for Disease Control and Prevention (CDC), and requires that a signed document acknowledging receipt of the factsheet be returned prior to the athlete's participation in the sport. (HSC § 124236)

11) Requires a prescriber to do both of the following when prescribing an opioid or benzodiazepine medication to a patient, subject to specified conditions and exceptions:

    a) Offer a prescription for naloxone hydrochloride or a similar drug approved for the complete or partial reversal of opioid-induced respiratory depression.

    b) Provide education to the patient, or a minor patient's parent or guardian, on opioid overdose prevention and the use of naloxone hydrochloride or similar drugs.

    (Business and Professions Code (BPC) § 741)

12) Requires all physicians and surgeons to complete a continuing education course in pain management and the treatment of terminally ill and dying patients. (BPC § 2190.5)

13) Defines "dispense" as the furnishing of drugs or devices upon a prescription from an authored prescriber acting within the scope of their practice, or the furnishing of drugs or devices directly to a patient by prescribers. (BPC § 4024)

14) Requires labeling of all containers of prescription drugs stating information about the drug, directions for use, the names of the patient and the prescriber, and other information required by the California State Board of Pharmacy. (BPC § 4076)

15) Requires a pharmacy or practitioner to prominently display on the label or container for any opioid that is dispensed to a patient for outpatient use a notice that states "Caution: Opioid. Risk of overdose and addiction." (BPC § 4076.7)

**THIS BILL**:

1) Requires prescribers to discuss the information regarding the risks and dangers of opioid use and addiction with adult patients in addition to the existing requirement for minors.

2) Exempts patients currently receiving hospice care from the discussion requirement.

3) Repeals the exemption from the discussion requirement for patients who are being treated for a diagnosis of chronic intractable pain.

**FISCAL EFFECT**: Pursuant to Senate Rule 28.8, negligible state costs.

**COMMENTS**:

**Purpose**. This bill is sponsored by the author. According to the author:

> "Existing law requires a prescriber to discuss specified opioid information when dispensing or issuing controlled substances. However, this requirement only applies when prescribing opioids to minors, not adults. Opioid overdoses are not exclusive to minors. The number of overdose deaths involving opioids, including prescription opioids, heroin, and synthetic opioids in 2021 was 10 times the number in 1999, which indicates that many measures to reduce opioid use have been unsuccessful. In an effort to mitigate the frequency of overdoses and reduce the number of opioid overdose deaths, SB 607 would expand the current requirement to include all patients, not just minors."

**Background**.

*Overview of the Opioid Crisis.* Opioids are a class of drugs prescribed and administered by health professionals to manage pain. The term "opioid" is commonly used to describe both naturally occurring opiates derived from the opium poppy as well as their manufactured synthetics. Common examples of prescription opioids include oxycodone (OxyContin, Percocet); hydrocodone (Vicodin, Norco, Lorcet); codeine; and morphine. Heroin is also an opioid, but is ineligible for lawful prescription in the United States.

In addition to providing pain relief, opioids can be used as a cough suppressant, an antidiarrheal, a method of sedation, and a treatment for shortness of breath. The majority of pharmaceutical opioids are Schedule II drugs under the federal Controlled Substances Act, considered by the DEA to have a high potential for abuse that may lead to severe psychological or physical dependence. However, combination drugs containing lower doses of opioids combined with other active ingredients are typically less restricted; for example, cough syrups containing low doses of codeine are frequently classified Schedule V medications.

In October of 2017, the White House declared the opioid crisis a national public health emergency, formally recognizing a growing epidemic responsible for devastation in communities across the country. According to the CDC, as many as 50,000 Americans died of an opioid overdose in 2016, representing a 28 percent increase over the previous year. The California Department of Public Health estimated that nearly 2,000 Californians died of an opioid overdose in 2016. These death rates compare to those at the height of the AIDS epidemic.

The nature of the country's opioid crisis has evolved over the past several years as illicitly manufactured fentanyl has replaced prescribed pain management medication as the dominant source of opioid-related overdoses. Fentanyl is a synthetic opioid that is up to 100 times stronger than morphine. Fentanyl is often pressed into pills to imitate more common (and less potent) pharmaceutical products, and other drugs can be unknowingly "laced" with fentanyl. Over 70,000 Americans died of a fentanyl overdose in 2021, including 5,961 deaths in California – approximately 83% of all opioid-related deaths in California.

Historically, the abuse of controlled substances was previously viewed primarily as a criminal concern analogous to street narcotics cases regularly investigated by law enforcement. However, an expert consensus has evolved that the substance abuse must be addressed through the lens of public health policy. In 2018, a coalition of California State Assemblymembers announced a package of legislation aimed at combating the opioid crisis, which sought to address the opioid crisis by curbing overprescribing, encouraging treatment, and preventing diversion.

Another bill introduced to address the opioid crisis in 2018 was Senate Bill 1109 by Minority Leader Patricia Bates. That bill required warning labels for opioid prescription drug containers; required that the Opioid Factsheet for Patients be provided to athletes engaged in after-school youth sports; required that existing trainings for prescribers related to pain management include addiction risks associated with Schedule II drugs; and required that prescribers discuss the dangers of opioid abuse and addiction with minor patients or their parents or guardians prior to prescribing a controlled substance containing an opioid.

This bill would expand the discussion requirements previously enacted through Senate Bill 1109 to apply to all patients of any age, not just minors. The bill would additionally repeal the exemption for patients diagnosed with chronic intractable pain but add a new exemption for patients receiving hospice care, and existing exemptions would remain in place. The author believes that adult patients would also benefit from receiving information about the risks of opioids from their health care providers, especially as overdose death rates remain high.

**Current Related Legislation**.

AB 2115 (Haney) would allow an authorized practitioner to dispense a narcotic drug from a clinic's supply for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral to opioid addiction treatment. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

**Prior Related Legislation**.

AB 1751 (Gipson) of 2023 would have similarly expanded the requirement for prescribers to discuss the risks of opioid use to apply to all patients and would have additionally required prescribers to discuss the availability of nonpharmacological treatments for pain. *This bill died in the Assembly Committee on Health.*

AB 888 (Low) of 2019 would also have similarly expanded the requirement for prescribers to discuss the risks of opioid use to apply to all patients and would have additionally required prescribers to discuss the availability of nonpharmacological treatments for pain. *This bill died in the Senate Committee on Business, Professions, and Economic Development.*

AB 528 (Low, Chapter 677, Statutes of 2019) reduced the required timeframe in which pharmacists are required to report dispensed prescriptions to CURES from seven days to the following business day, added Schedule V drugs to CURES, and changed the requirement for health practitioners to continue consulting the CURES database from every four months to every six months beginning July 1, 2021.

AB 2859 (Caballero, Chapter 240, Statutes of 2018) previously required certain pharmacies that dispense Schedule II, III, or IV controlled substances to display safe storage products, as defined, for sale in a place on the building premises that is located close to the pharmacy.

SB 1109 (Bates, Chapter 693, Statutes of 2018) required a prescriber to discuss with a minor, or the minor's parent, guardian, or other adult authorized to consent to the minor's medical treatment, information relating to the risks associated with opioids prior to dispensing or issuing a prescription of opioids to a minor for the first time.

**ARGUMENTS IN SUPPORT**:

The **Medical Board of California** (MBC) supports this bill, writing: "This bill promotes patient safety and helps ensure that important conversations related to the safe use of opioid medications occur between patients and providers. Notably, the proposed requirements in the bill are compatible with the Board's recently updated Guidelines for Prescribing Controlled Substances for Pain. For these reasons, the Board is pleased to support SB 607."

**ARGUMENTS IN OPPOSITION**:

The **California Medical Association** (CMA) opposes this bill unless amended to limit penalties or liabilities for a prescriber who fails to engage in the required discussion with their patient. The CMA writes: "While this bill is well intended it would add redundancy to an already cumbersome prescribing process by putting federal guidelines into state statute. Putting federal guidelines into state statute is concerning due to guidelines being often volatile in nature. Physicians currently provide the notifications mentioned in this bill and are diligent about staying up to date with federal guidance, while providing their patients with the most accurate information on prescribing. However, this bill could undermine that relationship by putting physicians in a bind when federal guidelines are updated but the state statute has not been."

**REGISTERED SUPPORT**:

California Association of Highway Patrolmen
The Chrysalis Center
Medical Board of California

**REGISTERED OPPOSITION**:

California Medical Association
California Orthopedic Association

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: June 11, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 820 (Alvarado-Gil) – As Amended May 1, 2023

**NOTE:** This bill is double referred and if passed by this Committee will be re-referred to the Assembly Public Safety Committee.

**SENATE VOTE**: 36-0

**SUBJECT**: Cannabis: enforcement: seizure of property

**SUMMARY**: Establishes a process for the Department of Cannabis Control (DCC) or a local jurisdiction to seize specified property where commercial cannabis activity is conducted without a license.

**EXISTING LAW**:

1) Regulates the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medicinal and adult-use cannabis under the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) and establishes the DCC to administer and enforce the act. (Business and Professions Code (BPC) §§ 26000-26260)

2) Establishes 20 types of cannabis licenses, including subtypes, for cultivation, manufacturing, testing, retail, distribution, and microbusiness and requires each licensee except for testing laboratories to clearly designate whether their license is for adult-use or medicinal cannabis. (BPC § 26050)

3) Authorizes the DCC to seek an injunction or other restraining order against unlicensed activity and authorizes the ordering court to also order restitution to injured parties or reimbursement to the DCC. (BPC § 26031.2)

4) Establishes various civil penalties for unlicensed commercial cannabis activity, including civil penalties of up to three times the amount of the relevant license fee for each violation. (BPC § 26038(a)(1))

5) Specifies that the civil penalties are in addition to criminal penalties that apply to an unlicensed person engaging in commercial cannabis activity (BPC § 26038(g))

6) Clarifies that the civil penalties do not limit, preempt, or otherwise affect any other state or local law, rule, regulation, or ordinance applicable to the conduct relating to commercial cannabis activities. (BPC § 26038(h)(1))

7) Specifies that the civil penalties imposed and collected are first used to reimburse the Attorney General, a county counsel, or a city attorney or prosecutor, whichever brought the action, and the remainder is deposited into the General Fund. (BPC § 26038(c),(e))

8) Specifies that MAUCRSA does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate commercial cannabis licensees, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of commercial cannabis licensees under within the local jurisdiction. (BPC § 26200(a)(1))

9) Defines "local agency" as a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency. (Government Code § 54951)

10) Authorizes the legislative body of a local agency, by ordinance, to make any violation of any ordinance enacted by the local agency subject to an administrative fine or penalty. (GOV § 53069.4)

11) Makes a violation of a city or county ordinance a misdemeanor unless by ordinance it is made an infraction and specifies that the violation of an ordinance may be prosecuted by local authorities in the name of the people of the State of California, or redressed by civil action. (GOV §§ 25132(a), 36900(a))

12) Authorizes a city or county to, by ordinance: (1) establish a procedure to collect abatement and related administrative costs by a nuisance abatement lien that has the priority of a judgment lien and (2) make the cost of the abatement a special assessment against the abated parcel that is collected at the same time and in the same manner as local taxes are collected and subject to the same penalties and the same procedure and sale in case of delinquency. (GOV §§ 25845, 38773.1, 38773.5)

13) Establishes the procedures for asset seizure and forfeiture of controlled substances in criminal proceedings. (Health and Safety Code §§ 11469-11495)

14) Regulates the manufacture, selling, and disposing of alcoholic beverages through licensure under the Alcoholic Beverage Control Act and establishes the Department of Alcoholic Beverage Control (ABC) to administer and enforce the act. (BPC §§ 23000-25762)

15) Authorizes the ABC or its employees to (1) seize any unlicensed still, whether in actual operation or not and whether assembled for operation or dismantled, any parts of the stills, and any materials or supplies capable of being used for the manufacture of alcoholic beverages which are found around the premises where the unlicensed still or parts are found and (2) seize any implements, instruments, vehicles, and personal property in the place or building, or within any yard or enclosure, where any unlicensed still or parts are found. (BPC § 25352)

16) Specifies that when alcoholic beverages or any other property are seized by the ABC, the alcoholic beverages or other property are forfeited to the State, and declares the forfeitures to be statutory forfeitures. (BPC § 25353)

17) Authorizes any person whose alcoholic beverages or other property, except automobiles or other vehicles, have been seized for forfeiture by the ABC, to, within 10 days after the

seizure, petition the ABC to return the alcoholic beverages or other property upon the grounds that the alcoholic beverages or other property were illegally or erroneously seized. (BPC § 25356)

**THIS BILL**:

1) Authorizes the DCC or any local jurisdiction to, after obtaining an inspection warrant, seize any of the following in the place or building, or within any yard or enclosure, where commercial cannabis activity is conducted without the required license:

    a) Cannabis or cannabis products.

    b) Processing equipment for trimming, drying, curing, sorting, weighing, or packaging cannabis or cannabis products.

    c) Implements of husbandry.

    d) Packaging materials.

    e) Hoop houses.

    f) Irrigation and water equipment.

    g) Generators.

    h) Lighting equipment.

    i) Heating, air, and ventilation equipment.

    j) Packaged soil and nutrients.

    k) Pesticides.

    l) Grading equipment.

    m) Manufacturing machinery and equipment.

    n) Security systems and equipment.

    o) Firearms.

    p) Fencing.

    q) Shelving and storage equipment.

    r) Tools.

    s) Raised beds and planting pots.

   t) Computers and computer accessories related to the unlicensed commercial cannabis activity.

   u) Currency, negotiable instruments, or securities in excess of $40,000.

2) Authorizes the DCC or any local jurisdiction to seize an automobile or other vehicle used to conceal, convey, carry, deliver, or transport cannabis or cannabis products valued at more than $5,000 by or for a person engaging in commercial cannabis activity without the required license.

3) Exempts from seizure and forfeiture the following:

   a) Unlicensed commercial cannabis activity that is limited to harvesting, drying, or processing fewer than 1,000 living cannabis plants.

   b) Real property.

4) Authorizes any person whose property has been seized for forfeiture under this bill to, within 10 days after the seizure, petition the DCC or local jurisdiction, as applicable, to return the property upon the grounds that the property was illegally or erroneously seized.

5) Specifies that (1) the filed petition must be considered by the DCC or local jurisdiction within 60 days after filing, (2) an oral hearing must be granted to the petitioner if requested, and (3) requires the DCC or local jurisdiction to serve notice of its decision upon the petitioner.

6) Requires the DCC or local jurisdiction to, if the property is determined to be illegally or erroneously seized, order the property to be returned to the petitioner.

7) Specifies that the seized property is subject to a forfeiture proceeding in the superior court and deems the forfeitures to be statutory forfeitures.

8) Requires (1) notice of the seizure and of the intended forfeiture proceeding to be filed with the clerk of the court and to be served on all persons, firms, or corporations having a right, title, or interest in the property seized and, (2) if the owner or owners are unknown or cannot be found, notice of the seizure and intended forfeiture proceedings to be made upon those owners by publication in the county where the seizure was made.

9) Authorizes, within 20 days after service of the notice of seizure and intended forfeiture proceedings, or within 20 days after the date of publication, (1) the owner or owners of the property seized to file a verified answer to the fact of the alleged use of the property as described and (2) the claimant of a right, title, or interest in the property seized to make a verified answer to establish the claimant's claim.

10) Prohibits an extension of time for the purpose of making the verified answer.

11) Requires the court to, if at the end of 20 days after the notice has been mailed or published there is no verified answer on file, hear evidence upon the fact of the use of the property and upon proof order the property forfeited to the State of California.

12) Authorizes, if a verified answer has been filed, the forfeiture proceeding to be set for hearing on a day within 30 days from the date of filing, and requires notice of the proceeding to be given to the owner or owners filing verified answers.

13) Authorizes, at the time set for the hearing, an owner who has verified answers on file to show by a preponderance of the evidence any of the following:

    a) That the property did not meet the criteria required for seizure and forfeiture.

    b) That the property was not used, or intended to be used, to facilitate unlicensed commercial cannabis activity.

    c) That the owner of the property seized did not own, manage, direct, or control any part of the unlicensed commercial cannabis activity, or have a financial interest in the commercial cannabis activity as defined by regulation of the DCC.

    d) That at the time of seizure, a complete application for a license had been submitted by an authorized applicant for the commercial cannabis activity and had not been approved or denied by the DCC or abandoned or withdrawn by the applicant.

14) Requires the court, if it finds any of the specified facts shown in the verified answer, to order the property released to the owner or owners of the property.

15) Authorizes the claimant of a right, title, or interest in the property under a lien, mortgage, or conditional sales contract that is officially of record, at the time set for the hearing, to prove that the lien, mortgage, or conditional sales contract is bona fide and was created after a reasonable investigation of the moral responsibility, character, and reputation of the lienholder, mortgagee, or vendor and without any knowledge that the property was being, or was to be, used in the manner qualifying for seizure or forfeiture.

16) Requires the court, if the lienholder, mortgagee, or vendor proves the facts regarding reasonable investigation or lack of knowledge, to order the property released to them if the amount due to them is equal to, or in excess of, the value of the property but if the amount due to them is less than the value of the property, specifies that the property shall be sold at public auction by the DCC or the local jurisdiction, and the remainder of the proceeds of the sale, after payment of the balance due on the purchase price, mortgage, or lien, shall be distributed in the same manner as the remainder in any other judgment in favor of forfeiture.

17) Requires, upon a judgment in favor of the forfeiture, the property to be sold at public auction by the DCC or the local jurisdiction and the proceeds of that sale to be distributed as follows:

    a) To the DCC for all expenditures made or incurred by it in connection with the seizure, forfeiture, and sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this bill.

    b) The remaining funds shall be distributed as follows:

        i) In the case of property seized by the DCC, the funds shall be paid to the Treasurer for deposit into the Cannabis Control Fund.

ii) In the case of property seized by a local jurisdiction, 15 percent of the funds shall be paid to the local jurisdiction and 85 percent of the funds shall be paid to the Treasurer for deposit into the Cannabis Control Fund.

iii) All revenue deposited in the Cannabis Control Fund shall be available, upon appropriation of the Legislature, exclusively to carry out the provisions of the California Cannabis Equity Act.

18) Specifies that the remedies or penalties provided by this bill are cumulative to the remedies or penalties available under other law.

**FISCAL EFFECT**: According to the Senate Appropriations Committee:

- Unknown court workload cost pressures to adjudicate additional forfeiture proceedings as established by this bill (Trial Court Trust Fund, General Fund).

- The DCC reports minor and absorbable costs, to the extent the department does not exercise this additional enforcement authority.

- Unknown potential increase in revenue, to be deposited in the Cannabis Control Fund and distributed to local jurisdictions as specified, from seized property sold at public auction. Funds from these sales may offset enforcement costs to the enforcing entity to some extent.

**COMMENTS**:

**Purpose**. This bill is sponsored by *Rural County Representatives of California*. According to the author, "We are almost eight years post implementation of Prop 64 and still seeing the negative impacts of illegal cannabis cultivation on the legal market. Unlicensed cannabis farms put the law-abiding growers, those who pay required fees and taxes, at a great disadvantage. Additionally, the impact on the legal market has had a disproportionate effect on social equity retailers. [This bill] is a solution to ensure the integrity of the legal cannabis market, and to encourage licensed cultivation. The Cannabis Equity Act is a pivotal piece of legislation to prioritize the historic nature of communities negatively impacted by cannabis criminalization. The intent of [this bill] is to dis-incentivize illegal grows while protecting dedicated dollars for the Cannabis Control Fund - social equity funds to reinvest in the legal, regulated cannabis market."

**Background**. The Medicinal and Adult Use Cannabis Regulation and Safety Act (MAUCRSA), which incorporates prior cannabis laws, authorizes a person who obtains a state license under MAUCRSA to engage in commercial adult-use cannabis activity under that license and any applicable local ordinances. Forty-four percent of cities and counties allow at least one type of cannabis business, but each locality has a different set of rules and a different process these businesses must undergo to comply with regulatory requirements.

The Department of Cannabis Control (DCC) is the California state agency that licenses and regulates cannabis businesses. DCC regulates the:

- Growing of cannabis plants.

- Manufacture of cannabis products.
- Transportation and tracking of cannabis goods throughout the state.
- Sale of cannabis goods.
- Events where cannabis is sold or used.
- Labeling of goods sold at retail.

*Unlicensed Market*. Regulators and stakeholders continue to raise significant concerns over cannabis operations that do business outside of the regulatory scheme. They can avoid fees and taxes while competing with lawful businesses. They also create the potential for consumer and environmental harm, avoiding testing and agricultural requirements.

Normally, licensing agencies regulate problematic licensed and unlicensed activity by imposing administrative penalties against an existing license (the strongest of which is revocation of the license), or by withholding the issuance of a license until any problems or deficiencies are addressed. However, the difficulty in regulating unlicensed businesses that do not plan to obtain a license, including unlicensed cannabis businesses, is that there is no incentive to comply with the administrative penalties because the license is irrelevant to them.

As a result, MAUCRSA includes various civil penalties that are sought in court and are not tied to the licensing process, which can be brought by the DCC, the Attorney General, or local public attorneys. There are individual penalties of up to three times the amount of the required license fee (which vary based on gross annual revenue, up to $300,000 for a microbusiness with gross annual revenue of $80,000,000). There are also civil penalties of up to $30,000 per day of operation for aiding and abetting unlicensed cannabis activity, which means a person encouraged, aided, or facilitated, the activity (not just mere knowledge of the activity).

The DCC is also authorized to work with law enforcement and seize and destroy cannabis and seek reimbursement for the cost. On March 2, 2023, the DCC released its enforcement statistics from 2021 and 2022. DCC reported, "DCC-led search warrant operations increased from 62 in 2021 to 155 in 2022, a 150 percent increase. DCC also seized over 41,726 pounds of illegal cannabis in 2021 and more than 144,254 pounds in 2022, a 246 percent increase. Arrests more than tripled, with 17 in 2021 and 56 in 2022. And DCC led operations that seized $243,017,836 worth of cannabis last year, a 212 percent increase from the $77,772,936 seized in 2021."

*Unlicensed Infrastructure*. Local jurisdictions also have the authority to adopt local ordinances related to unlicensed cannabis activity that is separate from MAUCRSA. However, according to the sponsor, unlicensed cannabis operations can quickly recover from enforcement actions due to "complicit landlords, exploitation of workers, and remaining specialty equipment used for the cultivation, manufacturing, and retail of illegal cannabis. State and local enforcement efforts have minimal impact without addressing the underlying infrastructure that enable these lucrative illegal operations to bounce back quickly."

This bill seeks to provide local jurisdictions with the ability to seize equipment and other property used in connection with unlicensed commercial cannabis activity and weaken the

organization's infrastructure. The sponsor notes that, while law enforcement is already authorized to seize assets related to unlicensed commercial cannabis activity in criminal cases, there is no authority to do so in regulatory or civil cases where the goal is to stop the unlicensed activity where there is no criminal conviction.

**Prior Related Legislation**. AB 195 (Committee on Budget), Chapter 56, Statutes of 2022, established the civil penalty of up to $10,000 per violation against a person who has management or control of a commercial property or a commercial building, room, space, or enclosure and knowingly rents, leases, or makes it available for the unlicensed cultivation, manufacture, storage, sale, or distribution of cannabis, made each day the violation continues a separate violation, and required an action for the civil penalties to be brought exclusively by the Attorney General on behalf of the people, on behalf of the DCC, or on behalf of the participating agency, or by a city or county counsel or city prosecutor.

AB 2102 (Jones-Sawyer) of 2022, which died pending a hearing in the Senate Judiciary Committee, would have established a civil penalty of up to $30,000 per violation for knowingly renting, leasing, or making available a building, room, space, or enclosure for the purpose of unlawfully manufacturing, distributing, or selling cannabis, in addition to the criminal penalty, and authorized injunctive relief, as specified.

AB 2728 (Smith) of 2022, which died pending a hearing in the Senate Judiciary Committee, would have increase the penalty for unlicensed activity from three to four times the fee of the license required, as specified.

AB 1138 (Rubio), Chapter 530, Statutes of 2021, established the $30,000 penalties for a person who aids and abets unlicensed commercial cannabis activity and the associated conditions and mechanisms.

AB 2094 (Jones-Sawyer) of 2020, which died pending a hearing in this Committee, would have imposed a $30,000 civil penalty on a person who makes the property available for unlawful cannabis activity.

AB 2164 (Cooley), Chapter 316, Statutes of 2018, allowed local ordinances to provide for the immediate imposition of administrative fines or penalties for the violation of building, plumbing, electrical, or other similar structural, health and safety, or zoning requirements if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis, except as specified.

**ARGUMENTS IN SUPPORT**:

*Rural County Representatives of California* (sponsor) writes in support:

> The implementation of the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), including the enforcement challenges surrounding the illicit cannabis market, have been ongoing challenges facing counties and cities for many years. California law currently does not have consequences strong enough to deter the widespread illegal commercial cannabis activities in many communities, including in jurisdictions with extension commercial cannabis activities.

In an investigative series published last year, the Los Angeles Times described the scale of the illicit market challenge as "immense" and highlighted the numerous consequences associated with illicit cannabis activity, including an increase in cannabis-related violence; worker exploitation; and environmental damage. In 2021, the California Department of Fish and Wildlife eradicated 2.6 million illegal cannabis plants, seized 794 firearms, removed over 32,000 lbs. of trash from public lands, and removed 404 illegal water diversions. Moreover, the Unified Cannabis Enforcement Taskforce seized a combined total of $9.5 million in cash, and a retail value of over $1.3 billion in seized cannabis product in 2021 and 2022.

The reality, unfortunately, is that many illicit cannabis operations are able to quickly recover following enforcement actions due to complicit landlords, exploitation of workers, and remaining specialty equipment used for the cultivation, manufacturing, and retail of illegal cannabis. Local jurisdictions often get calls within 24-48 hours after enforcement action that these bad actors are back in business. State and local enforcement efforts have minimal impact without addressing the underlining infrastructure that enable these lucrative illegal operations to bounce back quickly.

Existing law authorizes the seizure of property used in conjunction with the unlicensed manufacture of hard liquor (i.e., moonshining). Unlike drug forfeiture statutes, these laws are adapted to the fact that alcoholic beverages are not inherently unlawful. No criminal conviction is required, and anyone with an interest in the property is given an opportunity to prove in a civil proceeding that the property was not used unlawfully. This model is a needed tool to effectively curtail illicit cannabis operations that undercut a safe and legal marketplace.

[This bill] would bolster enforcement efforts against illicit cannabis operations by authorizing, through a civil enforcement process, the removal of the underlying infrastructure—such as specialized cultivation and manufacturing equipment—used for unlicensed cannabis activities. [This bill] provides law enforcement with an optional tool to disrupt the resources of unlicensed conspirators that allow illegal cannabis operations to thrive. In addition, this measure invests enforcement proceeds in the Cannabis Control Fund to support equity programs for legal operators that were negatively impacted by the war on drugs. It's vital to not only shut down bad actors but also support licensed cannabis businesses that enhance reliable access to regulated, tested cannabis in the legal market.

It is critical to ensure that the limited resources used to enforce against unlicensed cannabis operations be impactful. In addition to disrupting the operations themselves, civil asset forfeiture can also act as a deterrent to other illicit operators and promote entrance into the legal, regulated cannabis market.

**ARGUMENTS IN OPPOSITION**:

*American Civil Liberties Union California Action* writes in opposition:

> [This bill] would circumvent California's existing civil asset forfeiture laws and allow the state to permanently take personal property from California residents without first charging them with or convicting them of a crime. [This bill] undermines basic property rights, threatens fundamental notions of due process and fairness, and is also unnecessary given current law.
>
> Less than a decade ago, the Legislature passed SB 443 (Mitchell-2016) – a landmark piece of civil asset forfeiture reform legislation designed to protect vulnerable Californians from government overreach. SB 443 received wide bipartisan support in the Legislature and was endorsed by a diverse coalition of community organizations, law professors, attorneys, bar associations, members of Congress, political associations, business associations, labor organizations, religious leaders, and civil rights organizations.
>
> Central to SB 443 – and California civil asset forfeiture reforms before it – was the basic premise that before a person can have their property permanently taken by the government, that person must first be convicted of an underlying crime, the government must prove that the relevant property is connected with that crime, and the person must have a meaningful opportunity to challenge the seizure. Without such protections, civil forfeiture laws become ripe for abuse, leaving property owners with little recourse to defend their assets.
>
> While civil asset forfeiture can affect all property owners, it is particularly devastating for people earning low incomes, communities of color, and immigrant communities. Across the country, investigations have consistently found that people of color are disproportionately at risk of having their property taken through civil asset forfeiture laws. Unfortunately, the same is true in California. A report by the ACLU here in California found that more than 85% of federal equitable sharing payments made to California law enforcement agencies went to agencies policing communities in which people of color make up more than half of the population. The same report found that of the ten California counties with the highest per capita property seizure rates in 2014, nine had a median income below the statewide median and six had a higher proportion of people living in poverty than the statewide figure.
>
> Communities with a higher percentage of residents earning low incomes, and communities of color are particularly hard hit by civil asset forfeiture because they are more likely to carry cash. According to a 2016 report by the Center for American Progress, 17 million Americans, particularly from Black, Latino and households earning low incomes did not have a bank account. For these households, the loss of even a small amount of money can be the deciding factor as to whether a family will be able to pay rent and put food on the table. Unfortunately, however, the costs of hiring an attorney to fight for the return of property often far outweigh the actual amounts seized, and in the face of

navigating a complicated legal system without counsel, families are often left with no meaningful choice but to walk away empty-handed.

[This bill] lacks the necessary protections to ensure that Californians, particularly people of color and those earning low incomes, do not unjustly have their property taken from them. Moreover, California already has a robust civil asset forfeiture system, addressing the same objectives as [this bill], but with many of the necessary protections in place. California likewise has a robust criminal legal system which allows law enforcement agents to seize property from people they suspect to have committed crimes and hold it in evidence pending criminal proceedings. [This bill] is therefore unnecessary, in addition to being insufficient.

**POLICY ISSUES**:

*Asset Forfeiture*. This bill would authorize the DCC and local jurisdictions to seize specified property of unlicensed cannabis operators with over 1,000 plants who have not applied for licensure if the property is related to the unlicensed activity. Opposition to this bill argues against the nature and breadth of the new authority, which falls within the jurisdiction of the Assembly Public Safety Committee. If this bill passes this committee, the author and sponsor may wish to continue those conversations in that committee.

**IMPLEMENTATION ISSUES**:

*1,000 Plants*. The authority under this bill is limited to unlicensed activity involving 1,000 or more living plants, which may exempt otherwise “large” unlicensed commercial cannabis operators.

**REGISTERED SUPPORT**:

Rural County Representatives of California (sponsor)
County of El Dorado
County of Mendocino
County of Monterey
County of Siskiyou
League of California Cities
Peace Officers Research Association of California

**REGISTERED OPPOSITION**:

ACLU California Action
California Norml (unless amended)
California Public Defenders Association (unless amended)
Drug Policy Alliance
Ella Baker Center for Human Rights
Last Prisoner Project
San Francisco Public Defender

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

Date of Hearing: June 11, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1015 (Cortese) – As Amended March 18, 2024

**SENATE VOTE**: 37-0

**SUBJECT**: Nursing schools and programs

**SUMMARY**: Requires the Board of Registered Nursing (BRN) to study and recommend standards regarding how approved schools of nursing or nursing programs manage or coordinate clinical placements and to annually collect, analyze, and report information related to management of coordination of clinical placements.

**EXISTING LAW**:

1) Regulates the practice of nursing under the Nursing Practice Act. (Business and Professions Code (BPC) §§ 2700-2838.4)

2) Establishes the Board of Registered Nursing (BRN) within the Department of Consumer Affairs (DCA) to administer and enforce the Nursing Practice Act until January 1, 2027. (BPC § 2701)

3) Requires an applicant for licensure as an RN to complete the education requirements established by the BRN in a program in this state approved by the BRN or in a school of nursing outside of this state which, in the opinion of the BRN, offers an education that meets the BRN's requirements. (BPC § 2736)

4) Defines "an approved school of nursing" or "an approved nursing program" as one that (1) has been approved by the BRN, (2) gives the course of instruction approved by the BRN, covering not less than two academic years, (3) is affiliated or conducted in connection with one or more hospitals, and (4) is an institution of higher education. (BPC § 2786(a))

5) Requires the BRN to determine by regulation the required subjects of instruction for licensure as an RN and (1) include the minimum units of theory and clinical experience necessary to achieve essential clinical competency at the entry level of an RN and (2) require all programs to provide clinical instruction in all phases of the educational process, except as specified. (BPC § 2786(c))

6) Requires a nursing program to obtain approval from the BRN for the use of any agency or facility for clinical experience, and requires the program to take into consideration the impact that an additional group of students would have on students of other nursing programs already assigned to the agency or facility. (California Code of Regulations, Title 16, § 1427)

7) Prohibits an institution of higher education or a private postsecondary school of nursing, or an entity affiliated with the institution or school of nursing, from making a payment to any clinical agency or facility in exchange for clinical experience placements for students

enrolled in a nursing program offered by or affiliated with the institution or private postsecondary school of nursing, as specified. (BPC § 2786.4)

8) Creates within the jurisdiction of the BRN a Nursing Education and Workforce Advisory Committee (NEWAC), which solicits input from approved nursing programs and members of the nursing and health care professions to study and recommend nursing education standards and solutions to workforce issues to the BRN. (BPC § 2785.6)

**THIS BILL**:

1) Requires the BRN's NEWAC to study and recommend standards regarding how approved schools of nursing or nursing programs manage or coordinate clinical placements.

2) Requires the study to include, at a minimum:

   a) How approved schools of nursing or nursing programs maintain clinical education standards.

   b) The participation of approved schools of nursing or nursing programs in consortiums with other approved schools of nursing or nursing programs to manage or coordinate clinical placements.

   c) The necessity and feasibility of a statewide consortium or regional consortiums under the regulatory oversight of the board to manage or coordinate clinical placements of approved schools of nursing or nursing programs.

   d) Identifying and reporting violations of the prohibition against paying for clinical placements.

   e) Ensuring fair and equitable access to clinical placement among approved schools of nursing or nursing programs.

   f) Identifying necessary information for the BRN to collect to ensure that approved schools of nursing and nursing programs comply with standards recommended by the committee.

3) Requires the BRN to annually collect, analyze, and report information related to the management of clinical placements and coordination with clinical facilities by approved schools of nursing or nursing programs.

4) Requires the report to include information relating to how approved schools of nursing or nursing programs collaborate and coordinate with other approved schools of nursing, nursing programs, or regional planning consortiums that utilize the same clinical facility.

5) Requires the BRN to publish the report on its internet website and submit the report to the Legislature.

6) Makes technical and conforming changes.

**FISCAL EFFECT**: According to the Senate Appropriations Committee:

- The Board of Registered Nursing estimates costs to be minor and absorbable, as the board notes it is currently working on a clinical facility approval database that it anticipates will capture and report the data points required by this bill. However, it is unknown when this database will be completed and whether the current build will be able to capture all of the data points required by this bill. To the extent that it cannot, then there may be unknown but potentially significant workload for the board to collect this data, or significant fiscal impact for the board to modify the current database build (Board of Registered Nursing Fund). Additionally, the board will likely still incur ongoing workload to annually analyze and report information related to the management of clinical placements.

- The Office of Information Services within the Department of Consumer Affairs (DCA) does not anticipate the need for additional IT changes.

- The boards and bureaus within the DCA are special fund agencies whose activities are funded by regulatory and license fees and generally receive no support from the General Fund. New legislative mandates, even those modest in scope, may in totality create new cost pressures and impact the entity's operating costs, future budget requests, or license fees.

**COMMENTS**:

**Purpose**. This bill is sponsored by the *California Nurses Association*. According to the author, "[This bill] will help California build an adequate nursing workforce that reflects the diversity of our state by increasing transparency in the management of clinical education placements for nursing students. To become a Registered Nurse, a nursing student needs 500 hours of hands-on clinical education. In 2022, a staggering 92 of California's 152 nursing programs were denied access to clinical placements for their students. Community colleges and state universities are acutely affected. This clinical impaction threatens our state's ability to keep the nursing profession accessible and affordable to diverse communities across California."

**Background**. The BRN is a licensing entity within DCA and is responsible for administering and enforcing the Nursing Practice Act, which is the chapter of laws that establishes the BRN and outlines the regulatory framework for the practice, licensing, education and discipline of RNs and advanced practice registered nurses. The BRN is also one of the few licensing boards that actively approve and regulate educational programs that offer the degrees necessary for licensure.

The purpose of the BRN's approval of educational nursing programs is to ensure the programs meet the minimum educational requirements established by the Nursing Practice Act and the BRN, including requirements for clinical experience. The Nursing Practice Act requires that clinical experience be taught in all phases of education, and the BRN's regulations require that theory and clinical experience be taught concurrently. As a result, approved programs must find clinical experience placements with partnering facilities that match the subject of the theory courses that the placed students will be taking.

*Lack of Clinical Placements*. As early as the BRN's 2017 Sunset Review,[1] this committee and the Senate Business, Professions and Economic Development Committee have raised the issue of the availability of clinical placements for nursing students. While there is no requirement for clinical facilities accept nursing students, many willingly accept them because it is necessary for the future of the nursing workforce and can help with onsite recruitment. However, the facilities must have staff that is qualified and available to teach and supervise students. As a result, clinical placements are often difficult to find. Unfortunately, students who are unable to obtain their clinical placements before the end of the term either have to drop out or receive an incomplete. Under either circumstance, the student would have to repeat the course.

To facilitate the availability of placements, some nursing programs and clinical facilities utilize local databases known as regional consortiums to share placement availability and coordinate partnerships. The consortiums vary by region, function, and pricing methodologies. However, participation is voluntary and as a result the databases are incomplete.

While the BRN has little to no direct control over the availability of placements, conversations also revolve around the BRN's role due to (1) its ability to control new nursing programs and enrollment increases at existing programs and (2) its requirement that nursing programs to obtain the BRN's approval of clinical placements. For example, under Issue #9 from the BRN's 2017 sunset review, staff recommended that the BRN contact programs that would share clinical placement space with another program and to comprehensively evaluate the impact of new programs prior to approving the programs. Staff also recommended that the BRN and the Legislature convene a working group with programs and facilities to determine a long-term solution to managing clinical placements. In 2018, the BRN did convene several regional summits to discuss clinical education capacity and produced a report with several recommendations, but widespread adoption of the recommendations did not occur.

In 2019, the Joint Legislative Audit Committee directed the State Auditor to review the BRN's oversight of prelicensure educational programs. As part of the review, the auditor found that the BRN lacks critical information about clinical placement slots when making enrollment decisions, which hampers its ability to prevent nursing students from being displaced because other nursing programs took their clinical spots. The State Auditor noted that the BRN did not gather and share with board members information about the total number of placement slots that a clinical facility can accommodate annually or how many slots the programs that use the facility will need each year.

As a result, AB 1015 (Blanca Rubio), Chapter 591, Statutes of 2021, required the BRN to incorporate regional forecasts into its biennial analyses of the nursing workforce, develop a plan to address regional areas of shortage identified by its nursing workforce forecast, as specified, and annually collect, analyze, and report information related to the number of clinical placement slots that are available and the location of those clinical placement slots within the state.

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[1] The sunset review process provides an opportunity for the DCA, the Legislature, the boards, and interested parties and stakeholders to discuss the performance of the boards, and make recommendations for improvements. Each year, the Assembly Business and Professions Committee and the Senate Business, Professions, and Economic Development Committee hold joint sunset review oversight hearings to review the boards and bureaus. For more information on the BRN's most recent review, see the background paper on the BRN's 2022 Sunset Review, accessible at: https://abp.assembly.ca.gov/jointsunsethearings.

To further address clinical placement issues, AB 2684 (Berman), Chapter 413, Statutes of 2022, which was the BRN's 2022 Sunset Review bill, made several changes to address the lack of clinical placements, including establishing a lower 500 minimum number of clinical experience hours, authorizing clinical placements to take place in the academic term immediately following theory, prohibiting nursing schools and programs from paying for clinical placements, and requiring the BRN to utilize data from available regional or individual institution databases in collecting information related to the number of clinical placement slots available to nursing students. The BRN is still in the process of implementing the sunset recommendations.

This bill would require the BRN's NEWAC to further study clinical placements and consortiums and to make recommendations based on that study, similar to the BRN's 2018 regional summits. It also specifically requires NEWAC to study violations of the prohibition against paying for placements. The BRN formed NEWAC in 2015 to bring together nursing educators, employers, practice representatives, and other key stakeholders to identify current nursing education and nursing workforce issues, challenges, and possible solutions.

**Current Related Legislation**. SB 1042 (Roth), which is pending in the Assembly Health Committee, would require the BRN to assist nursing programs in finding clinical placements and establish various reporting requirements on health facilities and clinics regarding the availability of placement opportunities.

**Prior Related Legislation**. AB 1577 (Low) of 2023 would have required hospitals that offer pre-licensure clinical training slots to work in good faith with community college nursing programs to meet their clinical training needs. AB 1577 died pending a hearing in the Senate Health Committee.

AB 2684 (Berman), Chapter 413, Statutes of 2022, which was the BRN's 2022 Sunset Review bill, made several changes to address the lack of clinical placements, including establishing a lower 500 minimum number of clinical experience hours, authorizing clinical placements to take place in the academic term immediately following theory, prohibiting nursing schools and programs from paying for clinical placements, and requiring the BRN to utilize data from available regional or individual institution databases in collecting information related to the number of clinical placement slots available to nursing students.

AB 2288 (Low), Chapter 282, Statutes of 2020, in response to the COVID-19 pandemic, authorized the director of an approved nursing program, during a state of emergency, to make requests to the BRN for the following: 1) the use of a clinical setting without meeting specified requirements; 2) the use of preceptorships without having to maintain specified written policies; 3) the use of clinical simulation up to 50% for medical-surgical and geriatric courses; 4) the use of clinical simulation up to 75% for psychiatric-mental health nursing, obstetrics, and pediatrics courses; and 5) allowing clinical placements to take place in the academic term immediately following theory.

AB 1015 (Blanca Rubio), Chapter 591, Statutes of 2021, required the BRN to incorporate regional forecasts into its biennial analyses of the nursing workforce, develop a plan to address regional areas of shortage identified by its nursing workforce forecast, as specified, and annually collect, analyze, and report information related to the number of clinical placement slots that are available and the location of those clinical placement slots within the state.

**ARGUMENTS IN SUPPORT**:

The *California Nurses Association* (CNA), this bill's sponsor, writes in support:

> CNA members know that clinical education is an essential part of any nurses' clinical training, but the inaccessibility to clinical education slots for nursing programs threatens our state's ability to keep the nursing profession accessible and affordable to diverse communities across California. BRN data shows that, in 2021 and 2022, a staggering 92 of California's 152 nursing education programs reported being denied access to clinical placements for their nursing students. Nursing schools also reported that the inability to secure clinical placements was the number two reason for not enrolling more students.
>
> Limited access to clinical placements is an acute problem for community colleges and state universities, contributing to the overall decline in enrollment levels for associate degree in nursing and other public programs. If continued unchecked, this phenomenon will exacerbate an uneven playing field for nursing students from community colleges and public schools, which are vital for ensuring the nursing workforce reflects California's diverse patients. Amidst the ongoing employer-created staffing crisis in nursing, the legislature must ensure equity of opportunity for nursing students across our state, regardless of their background or what kind of school they can afford to attend.
>
> More oversight on clinical placements from the Board of Registered Nursing can help ensure that California has the capacity to keep training new nurses and that those nurses represent the full range of California's patient populations in all their racial, economic, cultural, linguistic, and geographic diversity.

**ARGUMENTS IN OPPOSITION**:

None on file

**REGISTERED SUPPORT**:

California Nurses Association (sponsor)
Board of Registered Nursing
California Federation of Teachers AFL-CIO
California Labor Federation, AFL-CIO
California Pan - Ethnic Health Network
California State University, Office of the Chancellor
California Teachers Association
Contra Costa College, RN Program
Faculty Association of California Community Colleges
Faculty Association of California's Community Colleges
Rancho Santiago Community College District

**REGISTERED OPPOSITION**:

None on file

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

Date of Hearing: June 11, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1024 (Ochoa Bogh) – As Amended May 20, 2024

**SENATE VOTE**: 39-0

**SUBJECT**: Healing arts: Board of Behavioral Sciences: licensees and registrants

**SUMMARY**: Revises license display and client notice requirements for licensees of the Board of Behavioral Sciences (BBS or Board) and clarifies what is means to be a supervisee of a licensed marriage and family therapist (LMFT), clinical social worker (LCSW), or professional clinical counselor (LPCC).

**EXISTING LAW**:

1) Establishes the BBS with the Department of Consumer Affairs to license and regulate LMFTs, LCSWs, LPCCs, and educational psychologists (LEP). (Business and Professions Code (BPC) §§ 4990 *et seq.*)

2) Defines "professional clinical counseling" as the application of counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems, and the use, application, and integration of the coursework and training, as required by law. Further specifies that "professional clinical counseling" includes conducting assessments for the purpose of establishing counseling goals and objectives to empower individuals to deal adequately with life situations, reduce stress, experience growth, change behavior, and make well-informed, rational decisions. (BPC § 4999.20)

3) Prohibits any person from practicing or advertising professional clinical counseling services without a license issued by the BBS and payment of a license fee. (BPC § 4999.30)

4) Requires a licensee to display their license in a conspicuous place in the licensee's primary place of practice. (BPC §§ 4980.31, 4989.48, 4996.7, and 4999.70)

5) Requires a LCSW to display their current renewal receipt near their license. (BPC § 4996.8)

6) Requires a licensee or registrant to provide a client with a notice prior to initiating psychotherapy services, or as soon as practically possible thereafter, informing them that the BBS received and reviews complaints. The notice must be written in at least 12-point type and delivery of the notice to the client must be documented. (BPC §§ 4980.32, 4989.17, 4996.75, and 4999.71)

7) Requires all trainees, associates, and applicants for licensure to be under the supervision of a supervisor at all times. (BPC § 4980.43.1(a)(b))

8) Requires applicants for licensure as an LMFT, LCSW, or LPCC to complete 3,000 of supervised experience, as specified. (BPC §§ 4980.43(c), 4996.23(a), and 4999.46(c))

9) Defines "one hour of direct supervisor contact" to mean any of the following:

   a) Individual supervision: one hour of face-to-face contact between one supervisor and one supervisee.

   b) Triadic supervision: one hour of face-to-face contact between one supervisor and two supervisees.

   c) Group supervision: two hours of face-to-face contact between one supervisor and no more than eight supervisees.

   (BPC §§ 4980.43.2(b)(1)(A-C), 4996.23.1(b)(1)(A-C), and 4999.46.2(b)(1)(A-C))

10) Specifies that supervisors of supervisees in a nonexempt setting shall not have more than six individual or triadic supervisees at any time. Supervisees may be registered as associate marriage and family therapists, associate professional clinical counselors, associate clinical social workers, or any combination of those registrations. (BPC §§ 4980.43.4(c), 4996.23.3(c), and 4999.46.4(c))

11) Defines "supervision" to mean responsibility for, and control of, the quality of mental health and related services provided by the supervisee. (BPC §§ 4980.43.1(b), 4996.20(b), and 4999.12(m))

**THIS BILL**:

1) Specifies that a licensee must only display their license in a conspicuous place in their primary place of practice when rendering professional clinical services in person.

2) Requires licensees and registrants, on and after July 1, 2025, upon initiation of psychotherapy services with a client, to include in the mandatory notice to clients, their full name as filed with the BBS, the license or registration number, the type of license or registration, and the license or registration expiration date.

3) Clarifies that "supervisee" means a person receiving supervision for providing clinical mental health services for purposes of individual, triadic, and group supervision and makes conforming changes.

4) Clarifies that at any one time, supervisors in nonexempt settings shall not serve as individual or triadic supervisors for more than a total of six persons who are not fully licensed at the highest level for independent clinical practice and who are receiving supervision for providing clinical mental health services in a nonexempt setting.

5) Deletes the requirement for a LCSW to display their current renewal receipt near their license.

6) Deletes obsolete implementation dates and makes other minor and non-substantive changes.

**FISCAL EFFECT**: Pursuant to Senate Rule 28.8, no significant state costs anticipated.

**COMMENTS**:

**Purpose**. This bill is sponsored by the **Board of Behavioral Sciences**. According to the author:

> Telehealth expanded rapidly throughout the COVID-19 pandemic, particularly for outpatient psychiatric services. Among individuals with employer-based insurance, there was a 20-fold increase in use of telehealth services for mental health needs. In a recent national survey administered by the American Medical Association, more than two-thirds (69%) of medical practices indicated they intend to sustain telehealth as a permanent fixture of their service portfolio. The benefits of telehealth include increased flexibility and convenience for patients as well as improved access to specialty care. This is why a majority of practitioners will continue to use telehealth services to provide mental health treatment. Modernizing the laws governing the practice is necessary for the benefit of patients and licensees.

**Background**.

The BBS is responsible for licensing and regulating LCSWs, LMFTs, LPCCs, and LEPs and registering Associate Clinical Social Workers, Associate Marriage and Family Therapists, and Associate Professional Clinical Counselors. Prior to licensure, applicants are required to obtain a qualifying master's degree, register with the BBS as an Associate, and complete 3,000 hours of post-degree supervised experience, among other requirements. With the exception of the "90-day rule," applicants cannot accrue supervised experience without registering as an Associate with the Board. Under the "90-day rule," applicants for registration as an Associate may count supervised experience gained during the window of time between degree conferral and the issue date of the Associate registration number if certain conditions are met.[1]

Supervisees must receive one hour of individual or triadic supervision or two hours of group supervision during any week in which experience is gained in each work setting. If the supervisee provides more than 10 hours of direct clinical counseling in single week, the supervisee must receive an additional hour individual or triadic supervision or two hours of group supervision that week.

Only licenses mental health professionals (LMFTs, LCSWs, LPCCs, LEPs (up to 1,200 hours), licensed clinical psychologists, and licensed psychiatrists) who meet specified requirements may supervise Associates and Associate applicants. Existing law limits the number of "supervisees" that a licensee may supervise to ensure quality supervision. Specifically, a supervisor may not supervise more than six supervisees for purposes of providing individual and triadic supervision in non-exempt settings and eight supervisees for purposes of providing group supervision in either exempt or non-exempt settings. There is no limit on the number of supervisees receiving individual and triadic supervision in exempt settings.

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[1] Board of Behavioral Sciences. (n.d) *Are You a Recent Graduate? Make Your Hours Count!* https://www.bbs.ca.gov/pdf/90day_rule.pdf

The term "supervisee" is generally thought to refer to BBS-registered Associates obtaining the required supervised experience for licensure. However the Board reports that it is currently unclear whether existing law accounts for non-Associates such as trainees, whom are currently enrolled in a master's or doctoral degree program, recent graduates under the 90-day rule, or other licensees.

This bill would clarify whom is considered a supervisee for purposes of the number of people a supervisor may supervise. Specifically, this bill would amend the definitions of individual, triadic, and group supervision to specify that a supervisee is a person or people receiving supervision for providing mental health care. Additionally, this bill would specify that in non-exempt settings, the supervisor limit is six individuals receiving individual or triadic supervision who are not fully licensed at the highest level for independent practice.

Existing law also requires BBS licensees to conspicuously display their license in their primary place of practice. However, this requirement is not helpful to consumers whom receive mental health services exclusively via telehealth. As such, this bill would amend that requirement to apply only when a licensee meets with clients in person. To ensure that all clients are provided pertinent license information, this bill would require all licenses to provide their full name, as registered with the Board, as well as their license or registration number, type, and expiration date. Such information would be required to be included in an existing notice to clients informing them that the BBS receives and reviews complaints against licensees.

**Prior Related Legislation**.

*AB 1758 (Aguiar-Curry), Chapter 204, Statutes 2022,* permits, until January 1, 2026, required weekly supervision via two-way, real-time videoconferencing in all settings, if the supervisor makes an assessment that it is appropriate for purposes of meeting requirements for licensure as a LMFT, LCSW, or a LPCC.

*AB 690 (Arambula), Chapter 747, Statutes of 2021,* clarified the types of settings where BBS trainees and registrants may practice and gain required supervised experience hours toward licensure; defined private practices and professional corporations as nonexempt settings, as specified; and expanded the number of supervisees per supervisor in nonexempt settings from three to six individuals.

*AB 2363 (Arambula) of 2020* would have required the work of an unlicensed or unregistered person working in an exempt setting to be under the oversight and direction of the entity, increased the number of supervisees a supervisor is allowed to supervise, and prohibited trainees from gaining supervised experience in specified employment settings. *AB 2363 died without a hearing in this committee.*

*AB 630 (Arambula and Low), Chapter 229, Statutes of 2019*, required psychotherapy providers who provide services under a BBS license, registration, or exemption to give clients a notice disclosing where complaints against the provider may be filed and made various technical, clarifying, and conforming changes.

*AB 93 (Medina), Chapter 743, Statutes of 2018,* revised and recasted supervised experience requirements for applicants as a LMFT, LCSW, and LPCC, as specified; updated the

requirements for supervisors of trainees, associates, and applicants; updated the requirements for trainees, associates, and applicants who are under supervision, as specified, and made other technical and conforming changes.

**ARGUMENTS IN SUPPORT**:

According to the **BBS**, "The Board believes that the amendments proposed in this bill provide further clarity to two areas of the law where some ambiguity has arisen as the professions have evolved."

**REGISTERED SUPPORT**:

Board of Behavioral Sciences *(Sponsor)*
California Association of Marriage and Family Therapists

**REGISTERED OPPOSITION**:

None on file

Analysis Prepared by: Kaitlin Curry / B. & P. / (916) 319-3301

Date of Hearing: June 11, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1067 (Smallwood-Cuevas) – As Amended May 16, 2024

**SENATE VOTE**: 35-0

**SUBJECT**: Healing arts: expedited licensure process: medically underserved area or population

**SUMMARY**: Requires specified healing arts boards under the Department of Consumer Affairs (DCA) to expedite the licensure process for applicants who demonstrate that they intend to practice in a medically underserved area or serve a medically underserved population.

**EXISTING LAW**:

1) Establishes the DCA within the Business, Consumer Services, and Housing Agency. (Business and Professions Code (BPC) § 100)

2) Enumerates various regulatory boards, bureaus, committees, and commissions under the DCA's jurisdiction, including healing arts boards under Division 2. (BPC § 101)

3) States that boards, bureaus, and commissions within the DCA must establish minimum qualifications and levels of competency and license persons desiring to engage in the occupations they regulate, upon determining that such persons possess the requisite skills and qualifications necessary to provide safe and effective services to the public. (BPC § 101.6)

4) Requires boards within the DCA to expedite, and authorizes boards to assist, the initial licensure process for an applicant who has served as an active duty member of the Armed Forces of the United States and was honorably discharged or who, beginning July 1, 2024, is enrolled in the United States Department of Defense SkillBridge program. (BPC § 115.4)

5) Requires boards within the DCA to expedite the licensure process and waive any associated fees for applicants who hold a current license in another state and who are married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces of the United States who is assigned to a duty station in this state under official active duty military orders. (BPC § 115.5)

6) Requires boards within the DCA to expedite, and authorizes boards to assist, the initial licensure process for applicants who have been admitted to the United States as a refugee, have been granted asylum by the Secretary of Homeland Security or the Attorney General of the United States, or have a special immigrant visa. (BPC § 135.4)

7) Establishes the Medical Board of California (MBC) within the DCA to regulate physicians and surgeons under the Medical Practice Act. (BPC §§ 2000 *et seq.*)

8) Requires the MBC to develop a process to give priority review status to applicants who can demonstrate that they intend to practice in a medically underserved area or serve a medically underserved population. (BPC § 2092)

9) Establishes the Board of Registered Nursing (BRN) within the DCA to regulate licensed registered nurses under the Nursing Practice Act. (BPC §§ 2700 *et seq.*)

10) Establishes the Physician Assistant Board (PAB) within the DCA to regulate physician assistants under the Physician Assistant Practice Act. (BPC §§ 3500 *et seq.*)

11) Requires the MBC, the OMBC, the BRN, and the PAB to expedite the licensure process for applicants who demonstrate that they intend to provide abortions within the scope of practice of their license. (BPC § 870)

12) Establishes the Dental Board of California (DBC) within the DCA to regulate dentists and dental assistants under the Dental Practice Acts. (BPC §§ 1600 *et seq.*)

13) Establishes the Dental Hygiene Board of California (DHBC) within the DCA to regulate dental hygienists under the Dental Hygiene Practice Act. (BPC §§ 1902 *et seq.*)

14) Establishes the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) within the DCA to regulate vocational nurses and psychiatric technicians under the Vocational Nursing Practice Act and the Psychiatric Technicians Law. (BPC §§ 2840–2895.5; 4500–4548)

15) Establishes the California State Board of Pharmacy (BOP) within the DCA to regulate pharmacy professionals under the Pharmacy Law. (BPC §§ 4000 *et seq.*)

16) Establishes the Board of Behavioral Sciences (BBS) within the DCA to regulate marriage and family therapists, clinical social workers, professional clinical counselors, and educational psychologists under their respective practice acts. (BPC §§ 4990 *et seq.*)

17) Establishes the Department of Health Care Access and Information (HCAI), previously established as the Office of Statewide Health Planning and Development, vested with responsibilities related to health planning and research development. (Health and Safety Code (HSC) §§ 127000 *et seq.*)

18) Requires HCAI to establish a health care workforce research and data center to serve as the central source of health care workforce and educational data in the state and to engage in the collection, analysis, and distribution of information on the educational and employment trends for health care occupations and distribution in the state. (HSC § 128050)

19) Defines "medically underserved area" as an area defined under federal regulation as a health professional shortage area or an area of the state where unmet priority needs for physicians exist as determined by the California Department of Health Care Access and Information. (HSC § 128552(d))

20) Defines "medically underserved population" as the Medi-Cal program and uninsured populations. (HSC § 128552(e))

**THIS BILL**:

1) Requires the BBS, the BRN, the BVNPT, the BOP, the DBC, the DHBC, and the PAB to develop a process to expedite the licensure process by giving priority review status to the application of an applicant for a license who demonstrates that they intend to practice in a medically underserved area or serve a medically underserved population.

2) Allows an applicant to demonstrate their intent to practice in a medically underserved area or serve a medically underserved population by providing proper documentation, including, but not limited to, a letter from an employer that does all of the following:

    a) Indicating the employer is located in a medically underserved area or indicating the employer serves a medically underserved population and identifying which is applicable.

    b) Indicating that the applicant has accepted employment.

    c) Stating the applicant's proposed start date.

3) Declares that compliance with the bill does not require the DCA or any of the respective boards to open a regulatory or rulemaking process to change their application process.

4) Provides that a board shall be deemed to be in compliance with the bill if it includes a supplemental letter or cover statement to their application explaining the availability of the expedited licensure process and indicating what an applicant's employer would need to provide to the board for the applicant to qualify for the priority review status.

**FISCAL EFFECT**: According to the Senate Committee on Appropriations, unknown fiscal impact to the BBS, with prior estimates of $137,000 in one-time costs and ongoing costs of $129,000; unknown, potentially minor workload impacts to the other impacted boards.

**COMMENTS**:

**Purpose**. This bill is sponsored by the **California Primary Care Association Advocates**. According to the author:

> "For decades, California has struggled to provide our most vulnerable populations with access to affordable and timely medical care. Hundreds of thousands of Californians throughout the state -- including in parts of my district in South Los Angeles -- live in Medically Underserved Areas, with diminished access to primary care services. Despite serving our most vulnerable communities, health care providers like clinics, have reported high vacancy rates and prolonged periods to fill staff vacancies for critical positions for physicians, dentists, nurses and many more. Wait times in the licensure process is just one of the factors contributing to our state's medical workforce shortage. These shortages undermine quality patient care, make it harder to catch preventable diseases, and only further exacerbate existing health disparities in our state. Expediting licenses for practitioners, who plan to serve our most vulnerable populations, is a valuable incentive for them to work in the communities that need them most and provide the state with another tool to address healthcare workforce shortages."

**Background**.

*Board of Behavioral Sciences*. The BBS licenses and regulates healing arts professionals engaged in the practice of providing certain behavioral health services to patients. Specifically, the BBS provides for the oversight of licensed marriage and family therapists; licensed clinical social workers; licensed professional clinical counselors; and licensed educational psychologists. The BBS also licenses associates completing supervised training requirements for full licensure.

*Board of Registered Nursing.* The BRN is responsible for administering and enforcing the Nursing Practice Act. The Act outlines the regulatory framework for the practice, licensing, education, and discipline of registered nurses (RNs), and advanced practice registered nurses, which includes certified nurse-midwives, nurse anesthetists, nurse practitioners, and clinical nurse specialists. The BRN also issues certificates to RNs who qualify as public health nurses. The BRN also maintains a list of RNs who specialize in psychiatric-mental health nursing for purposes of statutory requirements relating to counseling services for victims of crime.

*Board of Vocational Nursing and Psychiatric Technicians.* The BVNPT is the licensing entity responsible for administering and enforcing both the Vocational Nursing Practice Act and the Psychiatric Technicians Law. Those laws establish the BVNPT and outline two distinct licensure programs, each with a separate regulatory framework for the practice, licensing, education, and discipline of licensed vocational nurses and psychiatric technicians. The BVNPT also approves educational programs for both licenses.

*California State Board of Pharmacy.* The BOP is responsible for administering and enforcing the Pharmacy Law. As a licensing entity, the BOP regulates over 47,000 pharmacists, 550 advanced practice pharmacists, 6,500 intern pharmacists, and 70,000 pharmacy technicians across a total of 32 licensing programs. The BOP additionally issues various licenses to pharmacies, clinics, sterile compounding pharmacies, wholesalers, hospitals, outsourcing facilities, and reverse distributors.

*Dental Board of California.* The DBC is responsible for licensing and regulating the practice of dentistry in California. The DBC licenses an estimated 112,000 dental professionals, of which approximately 43,500 are dentists; 46,000 are registered dental assistants; and 2,300 are registered dental assistants in extended functions. The DBC is also responsible for setting the duties and functions of unlicensed dental assistants.

*Dental Hygiene Board of California.* The DHBC regulates three categories of mid-level dental professionals. These categories include registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions. The DHBC maintains authority over all aspects of licensure, enforcement, and investigation of California dental hygienists.

*Physician Assistant Board.* The PAB licenses and regulates physician assistants who provide health care services with the direction and responsible supervision of a doctor of medicine or osteopathy. The PAB licenses approximately 14,000 physician assistants. Physician assistants make clinical decisions and provide a broad range of diagnostic, therapeutic, preventative and health maintenance services.

*Expedited Licensure.* The DCA consists of 36 boards, bureaus, and other entities responsible for licensing, certifying, or otherwise regulating professionals in California. As of March 2023, there are over 3.4 million licensees overseen by programs under the DCA, including health professionals regulated by healing arts boards under Division 2 of the Business and Professions Code. Each licensing program has its own unique requirements, with the governing acts for each profession providing for various prerequisites including prelicensure education, training, and examination. Most boards additionally require the payment of a fee and some form of background check for each applicant.

The average length of time between the submission of an initial license application and approval by an entity under the DCA can vary based on a number of circumstances, including increased workload, delays in obtaining an applicant's criminal history, and deficiencies in an application. Boards typically set internal targets for application processing timelines and seek adequate staffing in an effort to meet those targets consistently. License processing timelines are then regularly evaluated through the Legislature's sunset review oversight process.

The first expedited licensure laws specifically related to the unique needs of military families. The Syracuse University Institute for Veterans and Military Families found that up to 35 percent of military spouses are employed in fields requiring licensure. Because each state possesses its own licensing regime for professional occupations, military family members are required to obtain a new license each time they move states, with one-third of military spouses reportedly moving four or more times while their partner is on active duty. Because of the barriers encountered by military family members who seek to relocate their licensed work to a new state, it is understood that continuing to work in their field is often challenging if not impossible.

In an effort to address these concerns, Assembly Bill 1904 (Block) was enacted in 2012 to require boards and bureaus under the DCA to expedite the licensure process for military spouses and domestic partners of a military member who is on active duty in California. Two years later, Senate Bill 1226 (Correa) was enacted to similarly require boards and bureaus under the DCA to expedite applications from honorably discharged veterans, with the goal of enabling these individuals to quickly transition into civilian employment upon retiring from service.

Statute requires entities under the DCA to annually report the number of applications for expedited licensure that were submitted by veterans and active-duty spouses and partners. For example, in Fiscal Year 2022-23, the MBC received 14 applications from military spouses or partners and 101 applications from honorably discharged veterans subject to expedited processing. In 2023, the federal Servicemembers Civil Relief Act (SCRA) imposed new requirements on states to recognize qualifying out-of-state licenses for service members and their spouses. This new form of enhanced license portability potentially displaces the need for expedited licensure for these applicants.

A decade after the first expedited licensure laws were enacted for military families, the Legislature enacted Assembly Bill 2113 (Low) in 2020 to require licensing entities under the DCA to expedite licensure applications for refugees, asylees, and Special Immigrant Visa holders. The intent of this bill was to address the urgency of allowing those forced to flee their homes to restart their lives upon acceptance into California with refugee status. It is understood that the population of license applicants who have utilized this new expedited licensure program across all DCA entities is, to date, relatively small.

Subsequently in 2022, the Legislature enacted Assembly Bill 657 (Cooper) to add another category of applicants eligible for expedited licensure. This bill required the MBC, OMBC, the BRN, and the PAB to expedite the license application for an applicant who demonstrates that they intend to provide abortions. This bill was passed in the wake of the Supreme Court's decision to overturn *Roe v. Wade*, which led to concerns that with approximately half of all states likely to seek to ban abortion, patients in those states would come to California to receive abortion services, creating a swell in demand for abortion providers. Assembly Bill 657 was passed to ensure that there is an adequate health care provider workforce to provide urgent reproductive care services.

*Health Care Workforce Inequities.* There has long been an acknowledged decline in the number of accessible health professionals, which has disproportionately impacted communities with concentrated populations of low-income residents, immigrant families, and people of color. A recent study found that between 2010 and 2019, the number of primary care physicians in proportion to population remained largely unchanged nationally, and that counties with a high proportion of minorities saw a decline during that period.[1] Similar access gaps exist for other types of health care providers. A report published by the UCLA Center for Health Policy Research in 2021 found that "a higher proportion of low-income adults lived in some regions that had a low concentration of dentists."[2]

In February 2024, the Assembly Committee on Health held an informational hearing on diversity in California's health care workforce. The background paper for the hearing concluded that "it is well-documented that physicians from minority backgrounds are more likely to practice in Health Profession Shortage Areas and to care for minority, Medicaid, and uninsured people than their counterparts."[3] However, research cited by the California Health Care Foundation (CHCF) in its 2021 report titled "Health Workforce Strategies for California: A Review of the Evidence" found that while 39 percent of Californians identified as Latino/x in 2019, only 14 percent of medical school matriculants and 6 percent of active patient care physicians in California were Latino/x.[4]

California has historically attempted to resolve these longstanding issues of access and representation through a number of different approaches. For example, the Legislature has previously enacted and funded loan repayment programs, such as the Dental Corps Loan Repayment Program of 2002, which provided grants to qualifying dentists who agreed to work for at least three years in a clinic or dental practice located in a dentally unserved area, or in which at least 50 percent of patients are from a dentally underserved population. The Health Professions Career Opportunity Program within HCAI similarly supports initiatives designed to enhance diversity and representation in the health professions by awarding grant funding through competitive programs.

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[1] Liu M, Wadhera RK. *Primary Care Physician Supply by County-Level Characteristics*, 2010-2019.
[2] Pourat, Nadereh, et al. *The Challenge of Meeting the Dental Care Needs of Low-Income California Adults With the Current Dental Workforce*, June 2021.
[3] https://ahea.assembly.ca.gov/media/1665
[4] https://www.chcf.org/publication/health-workforce-strategies-california

This bill would seek to build on the state's efforts to improve access to care in underserved communities by requiring specified healing arts boards to develop a process to expedite the licensure process by giving priority review status to the application of an applicant for a license who demonstrates that they intend to practice in a medically underserved area or serve a medically underserved population. These requirements would apply to the BBS, the BRN, the BVNPT, the BOP, the DBC, the DHBC, and the PAB. Similar language establishing essentially same expedited licensing requirements already exists in statute for the licensing of physicians and surgeons by the MBC and the OMBC. The author believes that extending that requirement to additional healing arts boards will contribute toward the state's goals to significantly and expeditiously expand access to health care for its most vulnerable communities.

**Current Related Legislation**.

AB 2442 (Zbur) requires specified healing arts boards to expedite the licensure process for applicants who intend to provide gender-affirming health care or gender-affirming mental health care services. *This bill is pending in the Senate Committee on Appropriations.*

AB 2862 (Gipson) would require boards under the DCA to prioritize African American applicants seeking licenses, especially applicants who are descended from a person enslaved in the United States. *This bill is pending in the Senate Committee on Rules.*

**Prior Related Legislation.**

AB 657 (Cooper, Chapter 560, Statutes of 2022) requires specified boards under the DCA to expedite applications from applicants who demonstrate that they intend to provide abortions.

AB 2113 (Low, Chapter 186, Statutes of 2020) requires entities under the DCA to expedite applications from refugees, asylees, and special immigrant visa holders.

SB 1226 (Correa, Chapter 657, Statutes of 2014) requires entities under the DCA to expedite applications from honorable discharged veterans.

AB 1288 (Pérez, Chapter 307, Statutes of 2013) requires the MBC and the OMBC to give priority review status to applicants who can demonstrate that they intend to practice in a medically underserved area or serve a medically underserved population.

AB 1904 (Block, Chapter 399, Statutes of 2012) requires entities under the DCA to expedite applications from military spouses and partners.

**ARGUMENTS IN SUPPORT**:

**California Primary Care Association (CPCA) Advocates** is the sponsor of this bill. CPCA writes in support: "Workforce has historically been a major issue in medically underserved areas of the state, and in health facilities primarily serving the populations who access safety net services like CHCs. Data shows community health centers need an average of 26.6 weeks to fill a physician vacancy and 18 weeks to fill a dentist and nurse practitioner vacancy. This has left those serving our safety net population in an untenable and challenging position when it comes to recruiting workers to provide healthcare to some of the state's most vulnerable populations.

Recently, the Medical Board of California established a process to expedite license applications for those who can demonstrate they intend to practice in a medically underserved area or serve a medically underserved population, and it has been a huge success. This bill is modeled off this existing process."

**ARGUMENTS IN OPPOSITION**:

The **Dental Board of California** (DBC) opposes this bill unless amended. The DBC writes: "With the recent growth in the number of groups that qualify for expedited processing, the benefits of this expedited processing may diminish because of the increase in the number of applicants that are advanced to processing. It would be useful to have guidance in the bill as to how to manage this growth in expedited processing. The Board appreciates your staff's willingness to work with the Board and anticipates these issues to be addressed in future proposed amendments to the bill."

**POLICY ISSUES**:

When expedited licensure was first established as a process in California, it was intended to address unique issues relating to military families who move frequently and can often not afford to wait to qualify for a new license each time they relocate to a new state. The addition of refugee and asylee applicants was intended to respond to a growing international refugee crisis by providing similar benefits to a small number of applicants whose relocation to California was presumably abrupt and who would need to rebuild their professions. In that same spirit, the extension of expedited licensure to abortion care providers was aimed at preparing for a potential influx of demand for those services in the wake of the Supreme Court's decision to overturn longstanding protections for reproductive rights.

Several pieces of legislation have been introduced this year that would establish new expedited licensure requirements for additional populations of applicants. Each of these proposals is certainly meritorious, as were each of the measures previously signed into law. However, there is potentially a cause for concern that as the state contemplates adding more categories of license applicants to the growing list of applications that must be expedited by entities within the DCA, the value of expediting each applicant type becomes diluted and non-expedited applications could become unduly delayed.

If the Legislature intends to extend expedited licensure requirements to new demographics of applicants—which the author of this bill has argued cogently in favor of doing—attention should be paid to the impact that all these proposals ultimately have in their totality. The Legislature should also subsequently revisit the need for expedited licensure requirements that were established in particular contexts and determine if they are still needed, which could be achieved by the addition of sunset clauses. It may ultimately prove to be appropriate to continue expediting the licensing process for those applicants proposed in this bill in the future.

**AMENDMENTS**:

To allow the Legislature to revisit the expedited licensure requirements of this bill in the future to determine if those requirements are still needed, add a new subdivision providing that the bill's provisions will sunset in four years unless extended by the Legislature.

**REGISTERED SUPPORT**:

California Primary Care Association Advocates *(Sponsor)*
Alameda Health Consortium – San Leandro, CA
AltaMed Health Services Corporation
APLA Health
Arroyo Vista Family Health Center
Asian Health Services
California Academy of Physician Assistants
California Association for Health Services At Home
California Association of Rural Health Clinics
California Consortium for Urban Indian Health
California Immigrant Policy Center
Chapa-De Indian Health
CommuniCare+OLE
Community Clinic Association of Los Angeles County
Comprehensive Community Health Centers
DAP Health
Dientes Community Dental
Eisner Health
El Proyecto Del Barrio, Inc.
Family Health Centers of San Diego
Friends of Family Health Center
Golden Valley Health Centers
Health Alliance of Northern California
Health Center Partners of Southern California
Hill Country Community Clinic
Inland Family Community Health Center
La Clinica De La Raza, Inc.
La Maestra Community Health Centers
Lifelong Medical Care
Neighborhood Healthcare
North Coast Clinics Network
North East Medical Services
Northeast Valley Health Corporation
Petaluma Health Center
Sac Health
Sacramento Community Clinics
San Diego Regional Chamber of Commerce
San Ysidro Health
Share Our Selves
Shasta Cascade Health Centers
Shasta Community Health Center
St. John's Community Health
Steinberg Institute
The Children's Clinic Family Health
TrueCare

Unicare Community Health Center
Venice Family Clinic
Wellspace Health
West County Health Centers, Inc.

**REGISTERED OPPOSITION**:

Dental Board of California *(Unless Amended)*

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: June 11, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1109 (Bradford) – As Amended May 16, 2024

**SENATE VOTE**: 31-2

**SUBJECT**: Cannabis: demographic information of license applicants

**SUMMARY**: Requires the Department of Cannabis Control (DCC) to collect voluntarily provided demographic data about individuals applying for an initial license or license renewal.

**EXISTING LAW**:

1) Enacts the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) to provide for a comprehensive regulatory framework for the cultivation, distribution, transport, storage, manufacturing, processing, and sale of medicinal and adult-use cannabis. (Business and Professions Code (BPC) §§ 26000 *et seq.*)

2) Establishes the DCC within the Business, Consumer Services, and Housing Agency (previously established as the Bureau of Cannabis Control, the Bureau of Marijuana Control, the Bureau of Medical Cannabis Regulation, and the Bureau of Medical Marijuana Regulation), for purposes of administering and enforcing MAUCRSA. (BPC § 26010)

3) Authorizes the director of the DCC to appoint a deputy director of equity and inclusion. (BPC § 26010.5)

4) Provides the DCC with authority for issuing twenty-two types of cannabis licenses, including license subtypes for cultivation, manufacturing, testing, retail, distribution, processing, event organization, and microbusiness. (BPC § 26050)

5) Establishes various requirements regarding the information that must be submitted to the DCC as part of an application for a state license. (BPC § 26051.5)

6) Requires the DCC to deny applications of state licensure under specified circumstances. (BPC § 26057)

7) Provides that an applicant shall not be denied a state license if the denial is based solely on a prior conviction that was subsequently dismissed or for which the applicant has obtained a certificate of rehabilitation. (BPC § 26059)

8) Requires the DCC to prepare and submit to the Legislature an annual report on its activities, including the number of state licenses issued, renewed, denied, suspended, and revoked, by state license category. (BPC § 26190)

9) Establishes the California Cannabis Equity Act, enacted to ensure that persons most harmed by cannabis criminalization and poverty be offered assistance to enter the cannabis industry. (BPC §§ 26240 *et seq.*)

10) Defines "equity assessment" as an assessment conducted by a local jurisdiction that was used to inform the creation of a local equity program, and that assessment may include the following:

    a) Reference to local historical rates of arrests or convictions for cannabis law violations.

    b) Identification of the impacts that cannabis-related policies have had historically on communities and populations within that local jurisdiction.

    c) Other information that demonstrates how individuals and communities within the local jurisdiction have been disproportionately or negatively impacted by the War on Drugs.

    (BPC § 26240)

11) Authorizes the DCC to provide technical assistance to a local equity program that helps local equity applicants or local equity licensees. (BPC § 26242)

12) Establishes a grant program wherein local jurisdictions may apply to the Governor's Office of Business and Economic Development (GO-Biz) for a grant to assist with the development of an equity program or to assist local equity applicants and local equity licensees through that local jurisdiction's equity program. (BPC § 26244)

13) Requires the DCC to serve as a point of contact for local equity programs and to publish on its internet website local equity ordinances that have been enacted by the legislative body of the respective local jurisdiction, and model local equity ordinances created by advocacy groups and experts. (BPC § 26246)

14) Requires the DCC to develop and implement programs to provide waivers and deferrals for application fees, licensing fees, and renewal fees for equity applicants and licensees whose businesses are no less than 50 percent owned by persons who satisfy one of the following:

    a) They have previously been convicted of an offense related to the sale, possession, use, manufacture, or cultivation of cannabis, under past criminal justice policies implementing cannabis prohibition.

    b) They have previously been arrested for an offense related to the sale, possession, use, manufacture, or cultivation of cannabis, under past criminal justice policies implementing cannabis prohibition.

    c) Residence in a household with a household income less than or equal to 60 percent of the area median income for the applicable local jurisdiction.

    d) Residence in an area with a population disproportionately impacted by past criminal justice policies implementing cannabis prohibition.

    (BPC § 26249)

15) Enacts the California Public Records Act (CPRA), which gives every person a right to inspect any public record, except as exempted. (Government Code §§ 6250 *et seq.*)

**THIS BILL**:

1) Defines "demographic data" as including, but not limited to, race, ethnicity, gender, sexual orientation, income level, education level, prior convictions, and veteran status.

2) Requires the DCC to collect demographic data about every person applying for a license.

3) Authorizes the demographic data to be requested when an initial license is issued or at the time of license renewal.

4) Requires the DCC to consolidate the demographic data it receives and publish the aggregate demographic data that it collects on its internet website.

5) Provides that the DCC shall maintain the confidentiality of the information it receives from an applicant or licensee and only release the information in an aggregate form that cannot be used to identify an individual.

6) Prohibits the DCC from requiring a licensee or applicant to provide the demographic information as a condition of licensure or license renewal, and provides that a licensee shall not be subject to discipline for not providing the information.

7) Provides that the provisions of the bill shall become operative only if the DCC unifies its licensing system for commercial cannabis activity under MAUCRSA.

8) Exempts disaggregated, personally identifying demographic data received from the CPRA.

**FISCAL EFFECT**: According to the Senate Committee on Appropriations, unknown, possibly absorbable costs to develop and implement the demographic data collection system and processes, with possible additional project cost pressures to the extent that the bill's mandates increase contracting costs to incorporate the functionality.

**COMMENTS**:

**Purpose**. This bill is sponsored by the author. According to the author:

> "SB 1109 will require the Department of Cannabis Control to collect and report demographic information of every applicant for licensure. Since the passage of Prop 64, entrepreneurs have continued to face difficulty entering and staying in the retail market, especially if they are Black or brown. California has a responsibility to make sure that our cannabis industry is equitable and fair to all. When their businesses succeed, not only does that help our communities but it also helps combat the illicit market. This measure will provide necessary transparency about California's cannabis industry.

**Background**.

*Brief History of Cannabis Regulation in California.* Consumption of cannabis was first made lawful in California in 1996 when voters approved Proposition 215, or the Compassionate Use Act. Proposition 215 protected qualified patients and caregivers from prosecution relating to the possession and cultivation of cannabis for medicinal purposes, if recommended by a physician.

This regulatory scheme was further refined by SB 420 (Vasconcellos) in 2003, which established the state's Medical Marijuana Program. After several years of lawful cannabis cultivation and consumption under state law, a lack of a uniform regulatory framework led to persistent problems across the state. Cannabis's continued illegality under the federal Controlled Substances Act, which classifies cannabis as a Schedule I drug ineligible for prescription, generated periodic enforcement activities by the United States Department of Justice. Threat of action by the federal government created persistent apprehension within California's cannabis community.

After several prior attempts to improve the state's regulation of cannabis, the Legislature passed the Medical Marijuana Regulation and Safety Act—subsequently retitled the Medical Cannabis Regulation and Safety Act (MCRSA)—in 2015. MCRSA established, for the first time, a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis. While entrusting state agencies to promulgate extensive regulations governing the implementation of the state's cannabis laws, MCRSA fully preserved local control. Under MCRSA, local governments may establish their own ordinances to regulate medicinal cannabis activity. Local jurisdictions could also choose to ban cannabis establishments altogether.

Not long after the Legislature enacted MCRSA, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA). The passage of the AUMA legalized cannabis for non-medicinal adult use in a private home or licensed business; allowed adults 21 and over to possess and give away up to approximately one ounce of cannabis and up to eight grams of concentrate; and permitted the personal cultivation of up to six plants. The proponents of the AUMA sought to make use of much of the regulatory framework and authorities set out by MCRSA while making a few notable changes to the structure still being implemented.

In the spring of 2017, SB 94 (Committee on Budget and Fiscal Review) was passed to reconcile the distinct systems for the regulation, licensing, and enforcement of legal cannabis that had been established under the respective authorities of MCRSA and the AUMA. The single consolidated system established by the bill—known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)—created a unified series of cannabis laws. On January 16, 2019, the state's three cannabis licensing authorities—the Bureau of Cannabis Control, the California Department of Food and Agriculture, and the California Department of Public Health—officially announced that the Office of Administrative Law had approved final cannabis regulations promulgated by the three agencies respectively.

In early 2021, the Department of Finance released trailer bill language to create a new Department with centralized authority for cannabis licensing and enforcement activities. This new department was created through a consolidation of the three prior licensing authorities' cannabis programs. As of July 1, 2021, the Department has been the single entity responsible for administering and enforcing the majority of MAUCRSA. New regulations went into effect on January 1, 2023 to effectuate the organizational consolidation and make other changes to cannabis regulation.

*Equity Programs.* Proponents of the AUMA argued that the state's legalization of recreational cannabis should recognize and address the devastating impact of prohibition on low-income and minority populations as a lawful industry begins to profit from the newly regulated marketplace.

Throughout the decades in which the sale and use of cannabis was largely illegal, innumerable individuals—the majority of whom are people of color—were incarcerated for engaging in activities made lawful by Proposition 64. Many purport that with the passage of the AUMA representing the state's comfort with allowing for legal sales of cannabis to occur, those communities who were aggressively penalized by the product's previous illegality should be afforded an opportunity to participate in the marketplace.

However, many have pointed out that compliance with the requirements of MAUCRSA, in addition to standard business start-up costs, creates significant barriers to entering into the cannabis industry for populations without capital or financing. In response, many have advocated for programs specifically aimed at assisting economically disadvantaged communities enter into the cannabis industry through financial assistance. SB 1294 (Bradford)—cited as the California Cannabis Equity Act of 2018—was chaptered to codify the state's recognition of local equity programs designed to enable populations or neighborhoods that were negatively or disproportionately impacted by cannabis criminalization to become approved participants in the cannabis marketplace.

Under the California Cannabis Equity Act, local jurisdictions may apply for and receive grant funding for purposes of providing assistance to local equity applicants or licensees seeking to gain entry to the state's regulated cannabis marketplace. Subsequent trailer bill language relating to cannabis modified the Act to provide that a local jurisdiction must make an "equity assessment" to inform the creation of a local program. These equity assessments include the following:

1. Reference to local historical rates of arrests or convictions for cannabis law violations.

2. Identification of the impacts that cannabis-related policies have had historically on communities and populations within that local jurisdiction.

3. Other information that demonstrates how individuals and communities within the local jurisdiction have been disproportionately or negatively impacted by the War on Drugs.

Once a local equity program has been established, the jurisdiction may receive grant funding to fund the administration of its local equity program. Under such a program, the local jurisdiction may provide assistance to applicants comprised of low-interest or no-interest loans to fund startup and ongoing costs such as rent, legal assistance, furniture, capital improvements, training, regulatory compliance, and the testing of cannabis. Equity funding may also be used by local jurisdictions to fund the provision of technical assistance and expenses associated with supporting efforts to provide sources of capital and assist in the development or administration of programs.

The Budget Act of 2021 included $20 million to fund the California Cannabis Equity Act. It also changed the grantmaking agency from the DCC to GO-Biz. The Budget additionally authorized the newly established DCC to appoint a Deputy Director of Equity and Inclusion to further the Department's mission to implement inclusive cannabis policies.

In 2019, SB 595 (Bradford) was enacted to provide further relief to local equity applicants and licensees seeking to enter the cannabis marketplace by allowing the DCC to waive or defer fees.

This bill provided another form of financial support for individuals seeking to become successful cannabis licensees who are already seeking or who are receiving support through a local equity program. SB 595 was conditioned on the allocation of funds to backfill lost revenue associated with the fee waiver or deferral prior to it being offered by the DCC. The Budget Act of 2021 allocated $30 million to implement the fee waiver and deferral programs and required the DCC to develop and implement a fee waiver program by January 1, 2022, and a fee deferral program by January 1, 2023, for all social equity applicants and who meet certain criteria.

In June of 2022, the DCC modified its interpretation of statute's definition for the term "equity applicants and licensees," increasing the gross revenue threshold applied in its previous regulations from $1.5 million to $5 million. The DCC's regulations also provided that an applicant or licensee may be eligible if they have an immediate family member that was arrested or convicted of a cannabis related offense. In support of this change, the DCC argued that "when an immediate family member was arrested for, or convicted of, an offense related to cannabis activity, the disproportionate impact affected the entire family."

*Collection of Demographic Information.* Currently, applicants for licensure or license renewal must submit a range of information to the DCC as part of their application. The DCC issues an annual report to the Legislature containing various data about the number of licenses received and approved. However, the DCC is not currently required to collect or report demographic information about the licensees applying for and receiving licenses. As a result, it is difficult to assess whether cannabis licenses are being awarded equitably across the state. It is similarly difficult to evaluate the success of programs like the California Cannabis Equity Act, which is intended to increase opportunity in the cannabis marketplace among communities that have historically not had access to similar opportunities or who were disproportionately impacted by the criminalization of cannabis.

This bill would require the DCC to collect demographic information from applicants and licensees such as race, ethnicity, gender, sexual orientation, income level, education level, prior convictions, and veteran status. This information would not be required as a condition of licensure, nor would licensees be punished for failing to provide that information. The author contends that whatever information is collected can be used to more effectively ascertain whether cannabis licensing in California is meeting the goals for fairness and equity that were promised to the voters when they approved Proposition 64.

**Prior Related Legislation**.

SB 51 (Bradford, Chapter 593, Statutes of 2023) authorized the DCC to issue and renew provisional licenses to local equity applicants engaged in cannabis retailer activities until 2031.

SB 595 (Bradford, Chapter 852, Statutes of 2019) required the DCC to develop and implement a program that provides a license fee deferral or waiver for needs-based applicants and licensees.

SB 1294 (Bradford, Chapter 794, Statutes of 2018) authorized local jurisdictions to request technical assistance and grant funding from the DCC to establish local equity programs.

SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017) enacted MAUCRSA.

**REGISTERED SUPPORT**:

None on file.

**REGISTERED OPPOSITION**:

None on file.

Analysis Prepared by: Robert Sumner / B. & P. / (916) 319-3301

Date of Hearing: June 11, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1225 (Jones) – As Introduced February 15, 2024

**SENATE VOTE**: 39-0

**SUBJECT**: Real estate appraisers: disciplinary information: petitions

**SUMMARY:** Authorizes the Bureau of Real Estate Appraisers (BREA) to, upon petition by a licensee accompanied by a specified fee, remove online posting of disciplinary actions that have been on the BREA's website for at least 10 years and for which the licensee provides credible evidence of rehabilitation, subject to certain conditions, and to remove disciplinary actions of any duration that are associated with a deceased licensee, as specified.

**EXISTING LAW**:

1) Provides for the licensure and regulation of real estate appraisers by the BREA within the Department of Consumer Affairs (DCA) under the Real Estate Appraisers' Licensing and Certification Law ("Law"). (Business and Professions Code (BPC) §§ 11300 *et seq.*)

2) Defines "appraisal" as the act or process of developing an opinion of value for real property, and clarifies that this does not include the opinion given by a real estate licensee, engineer, or land surveyor in the ordinary course of their licensed work. (BPC § 11302(b))

3) Defines "Appraisal Subcommittee" as the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. (BPC § 11302(g))

4) Requires the BREA to publish a summary of public disciplinary actions taken by their office, including resignations while under investigation and the violations upon which these actions are based, and requires the summary to, at a minimum, meet requirements set forth by the appraisal subcommittee. (BPC § 11317)

5) Prohibits the BREA from publishing identifying information with respect to private reprovals or letters of warning, which shall remain confidential. (BPC §§ 11317; 11317.2(b))

6) Requires the BREA to publish the status of every license and registration issued by the bureau on the internet, including suspensions and revocations of licenses or registrations, and accusations filed pursuant to the Administrative Procedures Act (APA). (BPC § 11317.2(a)(1))

7) Prohibits the BREA from publishing certain personal information of licensees, including home telephone numbers, dates of birth, or social security numbers, and allows a licensee to provide a post office box number or other alternate address as their address of record in lieu of a home address. (BPC § 11317.2(a)(1))

8) Requires the BREA to publish continuing education course information provided by a licensee when the licensee applies for renewal. (11317.2(a)(2))

9) Requires the commissioner of the Department of Real Estate (DRE) to publish the status of every license and registration issued by the bureau on the internet, including suspensions and revocations of licenses or registrations, and accusations filed pursuant to the Administrative Procedures Act (APA). (BPC § 10083.2(a)(1))

10) Authorizes the commissioner of the DRE, upon the receipt of a petition and accompanying fee, to remove a disciplinary item from their website that has been posted for at least 10 years and for which the licensee provides evidence of rehabilitation. (BPC § 10083.2(c))

11) Authorizes the DRE to develop regulations specifying the fee amount and minimum information required to accompany a petition for removal by a licensee. (BPC § 10083.2(d))

12) Requires the DRE to maintain a list of all licensees whose disciplinary records are altered as a result of a petition, to make the list available to other licensing bodies, and to update the list as often as it modifies records on its website. (BPC § 10083.2(f))

**THIS BILL:**

1) Authorizes the BREA, upon petition by a licensee accompanied by a fee sufficient to defray administrative costs, to remove the posting of disciplinary actions that meet the following conditions:

    a) The action has been on their website for at least 10 years, and

    b) The licensee has provided evidence of rehabilitation indicating the notice is no longer required to prevent a credible risk to the public.

2) Requires the BREA, when evaluating a petition for removal, to consider other violations that present a credible risk to the members of the public since the posting of the discipline requested for removal.

3) Authorizes the BREA to develop regulations establishing the fee and minimum information that must be included in a petition for removal, including but not limited to, a written justification and evidence of rehabilitation.

4) Authorizes the BREA, upon petition by an immediate family member or heir of a deceased licensee that is accompanied by a fee sufficient to defray administrative costs, to remove the posting of disciplinary actions associated with that licensee; authorizes the BREA to develop regulations establishing the associated fee and minimum required information for petition.

5) Requires the BREA to maintain a list of all licensees whose disciplinary records are altered as a result of a petition for removal, to make such list accessible to other licensing bodies, and to update this list as often as it modifies records in response to petitions for removal.

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

**COMMENTS**:

**Purpose.** This bill is sponsored by the **Appraisal Institute of California Government Relations Committee.** According to the author:

SB 1225 allows the Bureau of Real Estate Appraisers to remove notices of disciplinary action from their website if certain conditions are met. In order to be eligible for removal, the disciplinary information must be at least 10 years old and determined by the Bureau to no longer be necessary to ensure consumer protection. Licensee disciplinary information is a valuable tool in protecting consumers and promoting transparency. However, there is currently no way for the Bureau to remove the information when it is no longer relevant, such as when the licensee has been rehabilitated, the penalty has been removed, and many years have passed. Outdated disciplinary records draw attention away from current ones that are useful in identifying active threats to consumer protection. SB 1225 will allow the Bureau to more effectively and appropriately maintain its disciplinary database.

**Background.**

*Regulation of Real Estate Appraisal.* In 1989, in light of the savings and loans crisis impacting the U.S. economy at the time, Congress adopted the Financial Institutions Reform, Recovery & Enforcement Act, which among other reforms mandated that states license and regulate real estate appraisers who appraise property for federally related transactions. This includes a requirement that lenders involved in federally related transactions, including loans initiated by federal assistance programs, ensure the appraisals are performed by licensed appraisers.

Following this mandate, the Legislature enacted the Real Estate Appraisers Licensing and Certification Law in 1990, which among other things established the BREA to oversee a licensing and certification program in the state. The Licensing Division of the BREA is responsible for applicant compliance with the minimum requirements for licensure in accordance with criteria established by the federally mandated Appraisal Foundation and California law. The Licensing Division also registers Appraisal Management Companies (AMC) in compliance with California law.

The Enforcement Division of the BREA investigates the background of applicants, licensees, and AMC registrants to ensure they meet the standards for licensure. The Enforcement Division also investigates complaints filed against licensed appraisers and registered AMCs, and takes enforcement and/or administrative actions against licensees when it is determined that a violation has occurred.

The Appraisal Subcommittee (ASC) under the Federal Financial Institutions Examination Council (FFIEC) oversees general appraisal standards across the nation, including ensuring state programs meet minimum standards as determined by the Uniform Standards of Professional Appraisal Practice (USPAP) and maintaining a national registrar of appraisers and AMCs throughout the county. The USPAP is maintained by the Appraisal Foundation, which is comprised of leading appraisal organizations including the sponsors of this measure, the Appraisal Institute.

*Disciplinary Actions & Public Awareness.* Like many other regulatory bodies under DCA, including the DRE, the BREA is responsible for posting up-to-date information on their website regarding licensees and registered AMCs under their jurisdiction. This includes any license suspensions, revocations, or other adverse enforcement actions taken in response to a violation of California law or federal standards maintained by the ASC. This information is critical to informing and protecting the public from potential harm and promotes greater transparency in California's real estate appraisal industry.

In 2016, legislation by then-Assemblymember Bonta (AB 1807, Ch. 558, Stats. of 2016) authorized the Real Estate Commissioner to remove disciplinary actions that have been posted to DRE's website for at least 10 years, and for which the respective licensee has proven rehabilitation and otherwise good-standing, so long as the licensee submits a petition requesting removal that is accompanied by a fee to offset the administrative cost. Unfortunately, this authority was not extended to the BREA, who under current law is still required to maintain posting of all disciplinary actions for an indefinite amount of time.

This legislation seeks to resolve this discrepancy and grant the same authority to the BREA that was granted to the DRE in 2016. In addition, upon receipt of a petition and fee by an immediate family member or heir, this bill would allow the BREA to remove postings of disciplinary actions associated with deceased licensees, regardless of duration. Notably, much like current DRE law, the BREA would be responsible for maintaining and internal list of licensees whose records have been altered and make this list available for other licensing bodies.

**Prior Related Legislation.**

SB 800 (Archuleta, Ch. 431, Stats. of 2021) made various changes to the Real Estate Law intended to improve oversight of real estate and real estate appraiser professionals stemming from the joint sunset review oversight of the DRE and then BREA, including extending the sunset date of the BREA's authority to January 1, 2026.

AB 1807 (Bonta, Ch. 558, Stats. of 2016) authorized the Real Estate Commissioner to remove disciplinary records from the then-Bureau of Real Estate's website, subject to certain requirements and conditions that are substantially similar to this bill.

**ARGUMENTS IN SUPPORT:**

According to the **Appraisal Institute of California Government Relations Committee,** the sponsors of this legislation: "SB 1225 simply recognizes that after a responsible period of time and with evidence of rehabilitation indicating the lack of any credible threat to the public, permanent online posting is not required. Currently the Bureau Chief of BREA lacks any discretion in this regard, and the bill corrects this omission."

**REGISTERED SUPPORT:**

Appraisal Institute of California Government Relations Committee *(Sponsor)*

**REGISTERED OPPOSITION:**

None on file.

**Analysis Prepared by**: Edward Franco / B. & P. / (916) 319-3301