California State Assembly

BUSINESS AND PROFESSIONS

MARC BERMAN
CHAIR

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AGENDA

Tuesday, June 25, 2024
9:30 a.m. -- 1021 O Street, Room 1100

BILLS HEARD IN FILE ORDER

1.	SB 639	Limón	Medical professionals: course requirements.
2.	SB 1042	Roth	Health facilities and clinics: clinical placements: nursing.
3.	SB 1059	Bradford	Cannabis: local taxation: gross receipts.
4.	SB 1064	Laird	Cannabis: operator and separate premises license types: excessive concentration of licenses.
5.	SB 1233*	Wilk	University of California: Western University of Health Sciences: veterinary medicine: spay and neuter techniques.
6.	SB 1449	Newman	California Private Postsecondary Education Act of 2009: complaint processing contracts.
7.	SB 1451	Ashby	Professions and vocations.
8.	SB 1452	Ashby	Architecture and landscape architecture.
9.	SB 1454	Ashby	Bureau of Security and Investigative Services: sunset: limited liability companies: federally recognized tribes.
10.	SB 1455	Ashby	Contractors: licensing.
11.	SB 1456	Ashby	State Athletic Commission Act.
12.	SB 1498	Ashby	Cannabis and industrial hemp: advertising: civil action.
13.	SB 1526*	Business, Professions and Economic Development	Consumer affairs.
14.	SB 1459	Nguyen	Animal shelters.
15.	SB 1478*	Nguyen	Veterinary medicine: registered veterinary technicians.
16.	SB 1468	Ochoa Bogh	Healing arts boards: informational and educational materials for prescribers of narcotics: federal “Three Day Rule.”

* Proposed for Consent

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 639 (Limón) – As Amended June 19, 2024

SENATE VOTE: 36-0

SUBJECT: Medical professionals: course requirements

SUMMARY: Adds a course in "the special care needs of patients with dementia" as an option to the continuing education (CE) requirement for general internists and family physicians who have a patient population of which over 25% are 65 years old or older and applies the modified CE requirement to physician assistants (PAs) and nurse practitioners (NPs).

EXISTING LAW:

1) Regulates the practice of medicine under the Medical Practice Act. (BPC §§ 2460-2499.8)

2) Establishes the Medical Board of California (MBC) to license physician and surgeons and administer and enforce the Medical Practice Act. (BPC §§ 2001-2004)

3) Requires the MBC to adopt and administer standards for the CE of physician and surgeons and require licensees to demonstrate satisfaction of the CE requirements at intervals of not less than four nor more than six years. (BPC § 2190)

4) Requires physician and surgeons to complete not less than 50 hours of MBC-approved CE during each two-year period immediately preceding the expiration date of the license, except as specified, and to report progress towards compliance with the CE requirement at the time of renewal. (California Code of Regulations (CCR), Title 16, § 1336)

5) Establishes the Osteopathic Medical Board of California (OMBC) to license osteopathic physician and surgeons and administer and enforce the Medical Practice Act for osteopathic physician and surgeons. (BPC §§ 2450-2459.7)

6) Requires the OMBC to (1) adopt and administer standards for the CE of osteopathic physician and surgeons, (2) require licensees to demonstrate satisfaction of the CE requirements as a condition for the renewal of a license at intervals of not less than one year nor more than two years, (3) require licensees to complete a minimum of 50 hours of specified CE hours during each two-year cycle. (BPC § 2454.5)

7) Declares that it is the policy of this state that holders of Medical Doctor and Doctor of Osteopathic Medicine degrees be accorded equal professional status and privileges as licensed physicians and surgeons. (BPC § 2453(a))

8) Requires physicians and surgeons who are general internists and family physicians who have a patient population of which over 25% are 65 years of age or older to complete at least 20% of all mandatory CE hours in a course in the field of geriatric medicine or the care of older patients. (BPC § 2190.3)

9) Regulates the practice of nursing under the Nursing Practice Act and establishes the BRN to license registered nurses (RNs) and administer and enforce the act. (BPC §§ 2700-2717)

10) Defines "the practice of nursing" as functions, including basic healthcare, that help people cope with or treat difficulties in daily living that are associated with their actual or potential health or illness problems, and that require a substantial amount of scientific knowledge or technical skill. (BPC § 2725)

11) Establishes a category of advanced practice RNs known as NPs, and specifies the requirements for certification. (BPC §§ 2834-2837.105)

12) Requires RNs renewing their license to submit proof satisfactory to the BRN that, during the preceding two-year period, they have been informed of the developments in the RN field or in any special area of practice engaged in by the licensee since their last renewal, either by pursuing a course or courses of CE in the RN field or relevant to the practice of the licensee as specified by the BRN. (BPC § 2811.5(a))

13) Requires RNs to submit proof satisfactory to the BRN that during the preceding renewal period or preceding two years the licensee has started and successfully completed 30 hours of BRN-approved CE, including signing a statement under penalty of perjury, indicating compliance and agreeing to supply supporting documents on request. (CCR, tit. 16, § 1451)

14) Regulates and licenses PAs under the Physician Assistant Practice Act and establishes the Physician Assistant Board (PAB) to administer and enforce the act. (BPC §§ 3500-3546)

15) Authorizes the PAB to require a licensee to complete CE as a condition of license renewal, not to exceed more than 50 hours of CE every two years, and requires the PAB, as it deems appropriate, to accept certification by the National Commission on Certification of Physician Assistants, or another qualified certifying body, as determined by the PAB, as evidence of compliance with CE requirements. (BPC § 3524.5)

16) Requires PAs to complete 50 hours of PAB-approved CE during each two-year renewal period, deems the requirement satisfied if the PA, at the time of renewal, is certified by the National Commission on Certification of Physician Assistants, and requires each PA to report compliance with the CE requirements by declaring upon application for renewal that they have complied with the CE requirements. (CCR, tit. 16, § 1399.615)

THIS BILL:

1) Adds a course in "the special care needs of patients with dementia" as one of the courses a general internist or family physician who has a patient population of which over 25% are 65 years of age or older may take to fulfill the 20% CE requirement in geriatric medicine or care of older patients.

2) Requires all NPs and PAs who provide primary care to a patient population of which over 25% are 65 years of age or older to complete at least 20% of all mandatory CE hours in a course in the field of gerontology, the special care needs of patients with dementia, or the care of older patients.

3) Specifies that NPs self-certify whether they meet the criteria for the CE requirement on a form specified by the board.

4) Clarifies that the requirement on NPs applies to the existing amount of overall CE hours required.

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

COMMENTS:

Purpose. This bill is sponsored by the *Alzheimer's Association*. According to the author, "According to the Alzheimer's Association, more than 6.5 million Americans have Alzheimer's disease, but fewer than half have received a proper diagnosis. Primary care physicians, nurse practitioners, and physician assistants are increasingly vital in the early detection, diagnosis, and care of the aging population. In 2020, nearly 9 out of 10 primary care physicians expect to see an increase in the number of people living with dementia in the coming years. However, half of them say that medical professionals are not prepared to meet this demand. Without training, thousands of patients are vulnerable and without treatment. [This bill] will ensure that healthcare professionals are equipped for dementia detection and diagnosis statewide."

Background. Alzheimer's disease is a form of progressive dementia that affects memory, thinking, and behavior, eventually interfering with daily life. While there is currently no cure for Alzheimer's, the U.S. Centers for Disease Control and Prevention notes, "Early and accurate diagnosis also provides opportunities for you and your family to consider financial planning, develop advance directives, enroll in clinical trials, and anticipate care needs."

As the day-to-day providers of health care, primary care providers (PCPs) may notice the early signs of the onset of Alzheimer's. However, according to the sponsor, the base education and practice of PCPs—including that of physicians, NPs, and PAs—has not kept up with new Alzheimer's disease research and best practices, even though they may frequently encounter the disease in their practice. Therefore, this bill seeks to incentivize them to take additional coursework related to dementia as part of the CE required under their respective practice acts.

CE, sometimes referred to as continuing competence, is additional training or classes to maintain minimum competence post terminal certification or licensure. The purpose of CE is to ensure professionals keep up with practice changes over time. For instance, new technology, research, or ethical requirements may increase the level of minimum competence needed to protect consumers.

Physician CE. Physicians and surgeons are required to complete 50 hours of approved CE every two years as a condition of license renewal. Both the MBC and the OMBC require CE courses to be accredited or approved by specified organizations such as the American Medical Association and the Accreditation Council for Continuing Medical Education. There are also two subject-specific CE requirements in statute, one of which is the requirement for primary care physicians who have a patient population of which over 25% are 65 years of age or older to complete at least 20% of their 50 CE hours in the field of geriatric medicine. This bill slightly modifies that requirement to include the special care needs of patients with dementia in addition to geriatric medicine.

Nurse Practitioner (NP) CE. An NP is an "advanced practice" registered nurse who has obtained an additional postgraduate degree and certificate in advanced nursing practice, which includes physical diagnosis, psycho-social assessment, and management of health-illness needs in primary care or acute care. This additional training prepares NPs to serve as PCPs.

The Nursing Practice Act requires all registered nurses, including NPs, to complete 30 hours of CE during each two-year renewal cycle. The courses must be related to either the scientific knowledge or technical skills required for the practice of nursing, or to direct or indirect patient care. Courses approved by state, regional and national health professional associations and other licensing boards are also accepted if the content meet the BRN's requirements. This bill would modify those requirements to include the 20% geriatric medicine CE requirement.

Physician Assistant (PA) CE. PAs are trained to provide medical services under the supervision of a physician and surgeon. Sometimes referred to as "physician extenders," PAs may perform any service authorized by the supervising physician under a document called a "practice agreement," which is typically tailored to the practice of the supervising physician. The agreement outlines the medical services the PAs may perform, and aside from restrictions around prescribing and specifically identified specialties or procedures in the PA Practice Act, there is no legal limit on what the agreement can authorize. As a result, many PAs serve as PCPs as part of physician practices or organized health systems.

PAs are required to complete 50 hours of CE every two years as a condition of license renewal. CE requirements may be deemed satisfied if the PA is certified by the National Commission on Certification of Physician Assistants at the time of renewal. CE courses must be preapproved by the American Academy of Physician Assistants, the American Medical Association, the American Osteopathic Association Council on Continuing Medical Education, the American Academy of Family Physicians, the Accreditation Council for Continuing Medical Education, or a state medical society recognized by the ACCME. This bill would additionally apply the 20% geriatric medicine CE requirement.

Tracking Patient Populations. It would be overly burdensome for a licensing board to track the patient population of every licensee for purposes of enforcing a CE requirement. As a result, the MBC currently requires all licensees to self-certify completion of CE requirements, including those subject to the geriatric medicine requirement. This bill includes clarification of that process for the BRN.

Current Related Legislation. AB 2270 (Maienschein), which is pending in the Senate, would require licensees of the MBC, OMBC, BRN, PAB, Board of Psychology, and the Board of Behavioral Sciences to have the option to take coursework on menopausal mental or physical health within the scope of their practice to satisfy CE requirements.

AB 2581 (Maienschein), which is pending in the Senate, would require licensees of the MBC, OMBC, BRN, PAB, Board of Psychology, and the Board of Behavioral Sciences to have the option of taking coursework on maternal mental health to satisfy CE requirements.

AB 3119 (Low), which is pending in the Senate, would require the MBC and OMBC to consider requiring licensed physicians and surgeons to take a CE course related to Long COVID.

Prior Related Legislation. AB 1820 (Wright), Chapter 440, Statutes of 2000, the Geriatric Medical Education Training Act of 2000, added the physician geriatric care CE requirement.

ARGUMENTS IN SUPPORT:

The *Alzheimer's Association* (sponsor) writes in support:

> [This bill] seeks to create a more dementia-capable healthcare workforce by encouraging training in geriatric medical care, specifically including Alzheimer's and dementia detection and diagnosis. According to [the Alzheimer's Association's 2020 Facts & Figures Report], "On the Front Lines: Primary Care Physicians and Alzheimer's Care in America" 82 percent of primary care physicians (PCPs) say they are on the front lines of providing dementia care, but not all are confident in their care for those patients. Nearly 2 in 5 physicians (39 percent) reported they are "never" or only "sometimes comfortable" making a diagnosis of Alzheimer's or other dementias. Further, nearly one-third (27 percent) report they are "never" or only "sometimes comfortable" answering patient questions about Alzheimer's or other dementias. Twenty two percent of all PCPs had no residency training in dementia diagnosis and care. Of the 78 percent who did undergo training, 65 percent reported that the amount was "very little."
>
> For the first time in history, there is treatment that offers hope to patients and families living with the disease. The FDA has approved disease-altering drugs and there is an expectation of more on the horizon. However, to be effective these drugs must be administered early in the disease's progression. This makes obtaining a diagnosis a critical first step for accessing early interventions. We hope that by building a dementia-capable healthcare workforce, all Californians will be able to access a timely diagnosis and take full advantage of treatment advancements as more become available.

ARGUMENTS IN OPPOSITION:

None on file

AMENDMENTS:

To clarify that only NPs who treat the required ratio of older patients must meet the CE requirement:

On page 5 of the bill, lines 18-25:

> (i) For the purpose of fulfilling the requirements of subdivision (a), a nurse practitioner ~~shall certify whether they provide~~ *who provides* primary care to a patient population of which over 25 percent are 65 years of age or older ~~on a form developed by the board and shall complete~~ *shall certify that they have completed* at least 20 percent of all existing mandatory continuing education hours in a course in the field of gerontology, the special care needs of patients with dementia, or the care of older ~~patients.~~ *at the time of renewal.*

REGISTERED SUPPORT:

Alzheimer's Association (sponsor)
California Advocates for Nursing Home Reform
California Assisted Living Association
California Commission on Aging
California Collaborative for Long-term Services and Supports
Choice in Aging
Justice in Aging
LeadingAge California
Senior Services Coalition of Alameda County

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1042 (Roth) – As Amended June 20, 2024

NOTE: This bill is double referred and passed the Assembly Health Committee on June 11, 2024, by of a vote of 15-1-0.

SENATE VOTE: 35-2

SUBJECT: Health facilities and clinics: clinical placements: nursing

SUMMARY: Requires health facilities and clinics to work with representatives from nursing schools and programs, upon request, to meet the clinical placement needs of the school or program; requires nursing schools and programs to report specified clinical placement data to the Board of Registered Nursing (BRN); requires the BRN to assist schools or programs in finding clinical placement slots; and requires health facilities and clinics to report specified clinical placement data to the Department of Health Care Access and Information (HCAI).

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 license registered nurses and administer and enforce the Nursing Practice Act. (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) Defines "clinic" as an organized outpatient health facility that provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and that may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. (Health and Safety Code (HSC) § 1200)

9) Defines "health facility" as a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which the persons are admitted for a 24-hour stay or longer. (HSC § 1250)

10) Establishes HCAI to, among other things, collect health facility data for use by all state agencies and administer healthcare workforce training and development programs. (HSC §§ 127000-130079)

THIS BILL:

1) Requires a health facility or a clinic, whether or not it currently offers prelicensure clinical placement slots, to, upon request by an approved school of nursing or an approved nursing program and regardless of whether the school or program is public or private, meet with representatives from the school or program to discuss the clinical placement needs of the school or program.

2) Requires the requested health facility or clinic and the requesting school or program to work together in good faith to meet the needs of the school or program to educate and train nursing students.

3) Requires an approved school of nursing or an approved nursing program to annually prepare a report on clinical placements for nursing students on a standardized template specified by HCAI; requires the school or program to submit the report to the BRN, with updated reporting at times determined by the BRN in consultation with HCAI; and requires the report to include the following information:

    a) The beginning and end dates of all academic terms within the subsequent calendar year for each clinical slot needed by a clinical group with content area and education level.

    b) The number of clinical slots that the school or program has been unable to fill within the preceding calendar year.

4) Requires the BRN to submit the school or program reports to HCAI.

5) Requires a health facility or a clinic, whether or not it currently offers prelicensure clinical placement slots, to annually prepare a report on clinical placements for nursing students; requires the health facility or clinic to submit the report to HCAI, with updated reporting at the times as HCAI requires, on a standardized template specified by HCAI in accordance with, if applicable, the required systems of accounting and uniform reporting; authorizes HCAI, in consultation with the BRN, to decide to phase in the types of health facilities or clinics required to report on clinical placements; and requires the report to include all of the following information:

    a) Estimated number of days and shifts that will be made available within the subsequent calendar year for student use for each type of licensed bed or unit in the health facility or clinic, including, but not limited to, days and shifts available in the following areas of study:

        i) Geriatrics.

        ii) Medical-surgical.

        iii) Mental health/psychiatric nursing.

        iv) Obstetrics.

        v) Pediatrics.

    b) Number of days and shifts being utilized within the preceding calendar year for student use for each type of licensed bed or unit in the health facility or clinic, including, but not limited to, days and shifts available in the nursing study areas.

    c) Name of the academic institution with an approved school of nursing or nursing program utilizing each type of licensed bed or unit reported.

6) Requires, if a prelicensure clinical placement slot is available or filled for a period of time that begins in one reporting period, but ends in another reporting period, the slot be reported for the period in which the student began the clinical placement and not for the reporting period in which the student ended the clinical placement.

7) Requires HCAI to post the school or program and facility reports on its internet website in a manner that allows for the information reported by the facilities to be cross-referenced against the information reported by the schools and programs.

8) Authorizes the BRN, after receiving the required report from schools and programs, and utilizing the data reported to HCAI, and upon request by an approved school of nursing or approved nursing program, to assist in identifying clinical placement slot opportunities to meet the clinical placement needs of that school or program by conferring with health facilities or clinics within the appropriate geographic region of each school or program in an attempt to match available clinical placement slots with needed slots and to encourage the creation of new clinical placement slots at additional clinical training sites to meet school or program needs.

9) Specifies that the health facilities or clinics involved in the BRN's assistance may elect, and are not required, to make those existing or new, but unused, clinical placement slots available.

10) Specifies that the BRN's assistance in identifying clinical placement slot opportunities, if the BRN elects to do so, is limited to researching and examining potential clinical placement sites that would meet clinical course objectives, without impacting or displacing existing clinical placements of any approved school of nursing or approved nursing program that are already in progress or have been scheduled in the future.

11) Requires the BRN to report, through the BRN's Education/Licensing Committee, a summary of every request made by an approved school of nursing or approved nursing program of any assistance provided and the outcome of that assistance.

12) Prohibits any attempt to identify additional clinical placement slots by the BRN, a health facility, or a clinic from supplanting or disrupting the clinical placement of any nursing student for whom a clinical placement is already in progress, has already been scheduled, or is under agreement for future use by an approved school of nursing or approved nursing program.

13) Specifies that BRN's assistance process does not limit, prevent, or justify the approval or denial of new schools of nursing or the expansion of approved nursing programs.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- Unknown one-time costs for HCAI, likely hundreds of thousands, for information technology contract services; and unknown ongoing costs, likely hundreds of thousands, for state administration related to implementing a new data collection and database program (Health Data and Planning Fund).

- Unknown costs to the BRN related to data collection and providing a summary report (Board of Registered Nursing Fund).

COMMENTS:

Purpose. This bill is sponsored by the *United Nurses Associations of California/Union of Health Care Professionals*. According to the author, "One major reason that we've been unable to grow capacity in our nursing programs is the challenge of locating and securing the clinical placement slots necessary to provide the clinical training required to obtain a nursing degree and a license. This was confirmed by the State Auditor in a 2020 audit report of the Board of Registered Nursing, where the Auditor found that the Board lacked critical information about the location and availability of clinical placement slots to make enrollment decisions. Thus, we need an inventory of clinical placement slots located in a wide range of healthcare settings if we are to provide the clinical training necessary to expand our nursing school capacity and produce more nurses in the state. By collecting data on nursing programs' clinical placement needs and collecting data from health facilities and clinics on their clinical placement slots, the BRN and HCAI would have the data necessary to better understand where clinical placement slots currently exist, and where they can potentially be created."

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.

Centralized Clinical Placement System and HCAI Grant to Expand the Program. 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.

One example is the Centralized Clinical Placement System (CCPS). The Foundation for California Community Colleges (FoundationCCC) launched CCPS as a pilot program that began in the San Francisco Bay Area in 2005, intended to build on existing regional consortia to aggregate school and clinical provider information. The CCPS is an online tool that centralized communication to enable schools and clinical providers to rapidly match clinical placement needs to provider availability. Today, there are three regional consortia in California that are actively collaborating between clinical agencies and nursing schools: in the Bay Area, with 24 schools and 7 hospitals; in Fresno, with 31 schools and 15 hospitals; and in Los Angeles, with 69 schools and 30 hospitals. These consortia work together to coordinate the timing of clinical placement requests and assignments by clinical agencies, and also regularly convene to discuss

[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.

nursing education and workforce development. HCAI is negotiating a contract with the FoundationCCC. According to FoundationCCC, the HCAI project focuses on three main areas: providing access to CCPS, engaging with existing consortia across California, and supporting regions without a consortium. For existing consortia, FoundationCCC's efforts will concentrate on implementing CCPS. FoundationCCC will also reach out to regions lacking a consortium to organize meetings between nursing schools and clinical agencies, aiming to establish new consortia statewide. The statewide implementation of the CCPS will achieve several goals: streamlining the request and assignment process for clinical placements, expanding the availability of clinical experiences, engaging with non-traditional clinical agencies (such as private clinics and Public Health Offices), and aggregating data to identify gaps in availability and inform policy decisions. Currently, 43 California Community Colleges, ten California State University campuses, and four University of California campuses already use CCPS for clinical placement.

BRN Role in Clinical placements. 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.

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 additionally requires facilities and clinics to meet with representatives from schools and programs and work with the schools and programs to meet the demands of the school or program to educate and train nursing students. It also authorizes the BRN to help schools and programs find clinical placements. It also adds additional reporting requirements on schools and programs and clinical facilities, centralizing that data at HCAI.

Current Related Legislation. SB 1015 (Cortese), which is pending in the Assembly Appropriations Committee, would require the 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.

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 *United Nurses Associations of California/Union of Health Care Professionals* writes in support:

> There is a dire nursing shortage in California, and part of that shortage is due to the educational pipeline. Many approved schools of nursing cannot obtain the necessary clinical placement slots for their students at nearby health facilities. This delays completion of the program, and thereby delays the entry of qualified nurses into the workforce. [This bill] will begin to address that barrier.
>
> [This bill] requires approved nursing programs to report to the Board of Registered Nursing (BRN) a variety of information regarding the clinical slots they need for each academic term, as well as the number they were unable to fill. It also requires health facilities to report to the Department of Health Care Access and Information (HCAI) the number of days and shifts available for student use at the facility.
>
> This information addresses the finding of the State Auditor in 2020 which pointed out the BRN currently lacks sufficient data regarding the location and availability of clinical placement slots, which is critical in making enrollment decisions.
>
> Because this bill merely requires nursing programs to file reports with the BRN, there should be negligible cost impacts. Similarly, the data collection required by HCAI should be an absorbable cost given their already existing infrastructure for collecting and managing data.
>
> [This bill] also establishes a mechanism for approved nursing programs to meet with health facilities and work in good faith to accommodate the clinical placement slots needed by the school.

ARGUMENTS IN OPPOSITION:

None on file

REGISTERED SUPPORT:

United Nurses Associations of California/Union of Health Care Professionals (sponsor)
Board of Registered Nursing
California Ambulatory Surgery Association
California Community Colleges Chancellor's Office
California State Council of Service Employees International Union
California State University Employees Union
California Teachers Association
Disability Rights California
Faculty Association of California Community Colleges
Faculty Association of California's Community Colleges
Public Health Advocates

Rancho Santiago Community College District
Rural County Representatives of California

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1059 (Bradford) – As Amended April 24, 2024

NOTE: This bill is double referred and previously heard in the Assembly Revenue and Taxation Committee.

SENATE VOTE: 35-0

SUBJECT: Cannabis: local taxation: gross receipts

SUMMARY: Prohibits a city or county from including any state cannabis excise tax or sales and use tax in the definition of gross receipts for purposes of a local tax or fee imposed on a licensed cannabis retailer.

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) Defines "retailer" as a person authorized to engage in the retail sale and delivery of cannabis or cannabis products to customers. (BPC § 26001(ax))

3) Imposes a cannabis excise tax upon purchasers of cannabis or cannabis products sold in this state at 15% of the gross receipts of any retail sale by a cannabis retailer under the Cannabis Tax Law. (Revenue and Taxation Code (RTC) §§ 34010-34021.5)

4) Imposes a sales tax on retailers on the gross receipts from retail sales of tangible personal property under the Sales and Use Tax Law. (RTC §§ 6001-7176)

5) Defines a "retail sale" or "sale at retail" as a sale for a purpose other than resale in the regular course of business in the form of tangible personal property. (RTC § 6007)

6) Defines "gross receipts" as the total amount of the sale or lease or rental price of the retail sales of retailers. (RTC § 6012)

7) Authorizes any county by action of its board of supervisors to adopt a sales and use tax in accordance with the "Bradley-Burns Uniform Local Sales and Use Tax Law." (RTC §§ 7200-7226)

THIS BILL:

1) Prohibits a city or county from including in the definition of gross receipts, for purposes of any local tax or fee imposed by the city on a licensed cannabis retailer, the amount of any state cannabis excise or sales and use tax.

2) Defines, for purposes of this bill, "city" to include a charter city and a city and county.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- This bill would not result in an increase in state administrative costs, nor would it impact state revenues.

- By changing what localities can include in their local cannabis tax base (thus impacting tax administration at the local level), Legislative Counsel has keyed this bill as a state-mandated local program. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs. The one-time magnitude is unknown, but potentially in excess of $50,000 annually (General Fund).

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author, "[This bill] will assist the legal cannabis industry by alleviating some of the tremendous tax burdens placed on this industry. This bill would eliminate a local government's collection of a tax on a tax. This calculation method is unfair to consumers, and disadvantages licensed retailers that continue to struggle against a thriving illicit market. [This bill] addresses this issue and ensures taxes are based on the actual goods being sold."

Background. The retail sale of non-medicinal cannabis is subject to multiple taxes. At the state level, it is subject to the Sales and Use Tax Law, which imposes a sales tax on retailers engaged in business in this state that sell tangible personal property. Retailers must register with the California Department of Tax and Fee Administration (CDTFA) and collect and remit the tax to the CDTFA.

It is also subject to the Cannabis Tax Law, which requires retailers to collect a 15% cannabis excise tax from purchasers of cannabis based on the gross receipts of every sale of cannabis. Gross receipts include the sale price of the cannabis and all charges related to the sale, including delivery fees and any local cannabis taxes listed separately on an invoice or receipt. Sales tax is not counted as part of that total.

Taxes at the local level vary, but may include business license fees or retail taxes measured by gross receipts. According to the author, some jurisdictions calculate local cannabis taxes or fees after the state taxes are applied, resulting in a local tax on state taxes. This bill seeks to exclude state taxes from the calculation of retail cost of cannabis.

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.

As noted by the author, one of the goals of this bill is to reduce duplicative taxation of legal cannabis, which may lower its cost. Lower cost may make legal cannabis more appealing to consumers.

Prior Related Legislation. SB 512 (Bradford) of 2023 was substantially similar to this bill. SB 512 was held in the Assembly Revenue and Taxation Committee.

ARGUMENTS IN SUPPORT:

A coalition that includes the *California Cannabis Industry Association, California Cannabis Manufacturers Association, California Norml*, the *California Retailers Association*, the *Cannabis Distributors Association¸ Good Farmers Great Neighbors, UFCW - Western States Council,* and *Weedmaps* writes in support:

> In some jurisdictions, including the City of Los Angeles, local cannabis taxes or fees are being calculated after the state excise tax is applied. This is in direct conflict with guidance provided by the CDTFA. Additional changes are needed to existing cannabis tax laws, as this conflict between state and local tax regulations makes it impossible for legal operators to properly calculate and remit their taxes.
>
> The current taxation framework significantly contributes to the dominance of the illicit cannabis market, despite the intentions of Proposition 64 to establish a regulated and safer marketplace for cannabis products. High taxes at both the state and local levels inflate the prices of licensed cannabis products, driving consumers towards cheaper alternatives in the unlicensed, untested, and untaxed market. In summary, [this bill] represents a necessary step towards addressing the challenges faced by California's legal cannabis industry. By promoting fair taxation and chipping away at the significant competitive advantage of the illicit market, [this bill] aligns with the goals of Proposition 64 and the interests of both businesses and consumers.

A coalition that includes *Angeles Emeralds*, the *California Minority Alliance*, the *Coachella Valley Cannabis Alliance Network,* the *Long Beach Collective Association*, the *San Francisco Cannabis Retailers Alliance*, the *Silicon Valley Cannabis Alliance, Social Equity Los Angeles,* and the *United Cannabis Business Association* writes in support, "In many notable jurisdictions, most noticeably Los Angeles which has over 25% of the state's legal cannabis retailers, local cannabis tax law states that they shall tax the state excise taxes, while the CDTFA maintains that the state's excise tax shall tax the local tax. This conflict between state and local makes it impossible for operators to properly calculate and remit their taxes, which will lead to unfair penalties and the inability to renew a license."

ARGUMENTS IN OPPOSITION:

None on file

REGISTERED SUPPORT:

Americans for Safe Access
Angeles Emeralds
Big Sur Farmers Association
California Cannabis Industry Association
California Cannabis Manufacturers Association

California Minority Alliance
California Norml
California Retailers Association
Cannabis Distributors Association
Coachella Valley Cannabis Alliance Network
Good Farmers Great Neighbors
Humboldt County Growers Alliance
Lompoc Valley Cannabis Association, Santa Barbara County
Long Beach Collective Association
Mendocino Cannabis Alliance
Nevada County Cannabis Alliance
Origins Council
San Francisco Cannabis Retailers Alliance
Silicon Valley Cannabis Alliance
Social Equity LA
Trinity County Agriculture Alliance
UFCW - Western States Council
United Cannabis Business Association
Weedmaps

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1064 (Laird) – As Amended May 16, 2024

SENATE VOTE: 35-0

SUBJECT: Cannabis: operator and separate premises license types: excessive concentration of licenses

SUMMARY: Restructures the license classifications and application process for applicants seeking to engage in commercial cannabis activity under the Department of Cannabis Control (DCC) to provide for distinct operator license and premises license classifications for retail, distribution, processing and manufacturing license types, while providing for unified license classifications for cultivation or testing laboratory license types, beginning January 1, 2028.

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) Prohibits a person or entity from engaging in commercial cannabis activity without a state license issued by the DCC pursuant to MAUCRSA. (BPC § 26037.5)

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) Until June 30, 2022, gives the DCC discretion to issue provisional licenses to applicants who are not yet in compliance with the California Environmental Quality Act (CEQA) but who provide evidence that compliance is underway, with specific criteria for demonstrating progress. (BPC § 26050.2)

6) Until January 1, 2031, gives the DCC discretion to issue provisional licenses to local equity applicants who are not yet in compliance with the CEQA but who provide evidence that compliance is underway, with specific criteria for demonstrating progress. (BPC § 26050.5)

7) Provides that it is unlawful for any person to monopolize, attempt to monopolize, or combine or conspire with any person or persons to monopolize, any part of the trade or commerce related to cannabis, and requires the DCC to consider if an excessive concentration exists in the area where a license applicant will operate when determining whether to approve a license to engage in cannabis retail activity. (BPC § 26051)

8) Establishes various requirements regarding the information that must be submitted to the DCC as part of an application for a state license, including the following:

   a) Fingerprint images and related information for purposes of obtaining criminal history information from the Department of Justice and the Federal Bureau of Investigation.

   b) Evidence of the applicant's legal right to occupy and use the proposed location and proof that the landowner has acknowledged and consented to permit commercial cannabis activities to be conducted on the property by the tenant applicant.

   c) Evidence that the proposed location is not within a prohibited proximity to a school, daycare center, or youth center.

   d) A statement, signed by the applicant under penalty of perjury, that the information provided is complete, true, and accurate.

   e) For applicants with 20 or more employees, or applicants with 10 or more employees that submits an application on or after July 1, 2024, a notarized statement that the applicant will enter into or has already entered into a labor peace agreement.

   f) The applicant's valid seller's permit number or an indication that the applicant is currently applying for a seller's permit.

   g) For applicants for a cultivation license, a statement declaring the applicant is an "agricultural employer," as defined.

   h) Any other information required by the DCC.

   i) Payment of all applicable fees required for licensure by the DCC.

   j) Proof of a bond to cover the costs of destruction of cannabis or cannabis products if necessitated by a violation of licensing requirements.

   k) A statement, upon initial application and application for renewal, that the applicant employs or will employ one supervisor and one employee who have successfully completed a Cal-OSHA 30-hour general industry outreach course.

   (BPC § 26051.5)

9) Allows for a person to apply for and be issued more than one license from the DCC, except that a person who holds a testing laboratory license is prohibited from receiving a license for any other activity and a person with a financial interest in a testing laboratory license is prohibited from holding a financial interest in any other license type. (BPC § 26053)

10) Prohibits a licensed premises from being located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, daycare center, or youth center that is in existence at the time the license is issued. (BPC § 26054)

11) Authorizes the DCC to issue state licenses only to qualified applicants. (BPC § 26055(a))

12) Prohibits a licensee from changing or altering the premises in a manner which materially or substantially alters the premises, its usage, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless written approval by the DCC has been obtained. (BPC § 26055(c))

13) Prohibits the DCC from approving an application for a state cannabis license if approval of the license will violate the provisions of any local ordinance or regulation. (BPC § 26055(d))

14) Requires the DCC to deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under MAUCRSA or if specified conditions apply. (BPC § 26057)

15) Requires the DCC to notify an applicant in writing within 30 days of denying their application for a license. (BPC § 26058)

16) 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)

17) Requires the DCC to consider issues relating to water use and environmental impacts when issuing cannabis cultivation licenses. (BPC § 26060)

18) Establishes requirements for retail, distribution, and microbusiness licenses, including a requirement that each retailer have a licensed premises which is a physical location from which commercial cannabis activities are conducted, which may be closed to the public. (BPC § 26070)

19) Requires the DCC to promulgate regulations governing the licensing of cannabis manufacturers and standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. (BPC § 26130)

20) Requires that all advertisements identify the license number of the licensee responsible for its content and to comply with restrictions on advertising to youth audiences. (BPC § 26151)

21) Requires licensees to keep accurate records of commercial cannabis activity and authorizes the DCC to examine those records and inspect the premises of a licensee. (BPC § 26160)

22) 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)

23) Specifies that MAUCRSA does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances regulating commercial cannabis licensees. (BPC § 26200)

24) Authorizes three or more natural persons who are engaged in the cultivation of any cannabis product to form an association in connection with specified activities. (BPC § 26223)

25) 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.*)

THIS BILL:

1) Establishes an "operator license," defined as a state license establishing an applicant's eligibility to engage in commercial cannabis activities under MAUCRSA, other than the cultivation or laboratory testing of cannabis or cannabis products.

2) Provides that an operator license is a single license type and shall be effective statewide and shall not be specific to any premises.

3) Defines "local permit" as a valid, unexpired license, permit, or other authorization to engage in commercial cannabis activities issued by an affirmative act of a local jurisdiction or its duly authorized official.

4) Establishes a "premises license," defined as a ministerial approval issued by the DCC to the holder of an operator license for the conduct of commercial cannabis activity, other than the cultivation or laboratory testing of cannabis or cannabis products, at a specific premises for which the local jurisdiction has issued a local permit.

5) Prohibits the holder of an operator license from engaging in commercial cannabis activities without both a local permit and a premises license authorizing commercial cannabis activities at a specific premises.

6) Requires the holder of an operator license to apply for, and if approved, obtain, a separate premises license for each location where they engage in commercial cannabis activity.

7) Requires the DCC to implement a ministerial process using only fixed objective standards for the review and approval of modifications requested by the holder of a premises license.

8) Provides that premises license classifications include manufacturing, retail, distribution, microbusiness, and processing, and authorizes the DCC to issue a premises license that authorizes one or more classifications of these activities permitted.

9) Authorizes the DCC to issue a premises license only to the holder of a current and valid operator license and only for a specific premise permitted by the local jurisdiction.

10) Repeals the requirement that a premises be a contiguous area that is only occupied by one licensee and requires the DCC to adopt regulations governing the area and occupancy of premises where commercial cannabis activities are conducted.

11) Establishes a "unified license," defined as a state license authorizing commercial cannabis activity that includes the cultivation or laboratory testing of cannabis or cannabis products.

12) Requires a person and entity to possess a unified license issued by the DCC to engage in the cultivation or laboratory testing of cannabis or cannabis products, or both an operator license and one or more premises licenses issued by the DCC to engage in other forms of commercial cannabis activity.

13) Provides that the holder of a unified license shall be entitled to exercise all of the rights and privileges of an operator license.

14) Updates the definition of a microbusiness and divides the microbusiness license into two types, one of which may include cannabis cultivation under a unified license and one of which does not.

15) Eliminates the specific license type for cannabis event organizers.

16) Repeals the requirement for the DCC to consider if an excessive concentration exists in an area where a licensee will operate when the DCC is determining whether to grant, deny, or renew a retail license.

17) Removes the requirement that an applicant for an operator license provide evidence of compliance with laws relating to the premises where they intend to engage in commercial cannabis activities, instead requiring this evidence to be provided as part of an application for a premises license.

18) Requires the DCC to prescribe by regulation the criteria for issuance and renewal of operator licenses and unified licenses.

19) Allows the DCC to only issue operator and unified licenses to qualified applicants and prohibits the DCC from approving an application for a unified license or premises license if approval of such license violates any local ordinance or regulation.

20) Narrows the requirement to provide proof that the local jurisdiction has issued a local permit to only premises license applications for activity within the scope of an operator license.

21) Updates current requirements for cannabis advertising and marketing to include a license number to reference either an operator license number or a unified license number.

22) Requires the holder of a unified license or premises license to keep records identified by the DCC, and the holder of an operator license who does not also hold a current and valid premises license to keep the records identified by the DCC at the physical address of licensee's principal place of business.

23) Retroactively deems the holder of an unexpired annual license authorizing commercial cannabis activity that is cultivation or laboratory testing on January 1, 2028 to hold a unified license.

24) Retroactively deems the holder of an unexpired annual license authorizing any other commercial cannabis activity than cultivation on January 1, 2028, to hold an operator license and a premises license.

25) Makes numerous additional changes to various other provisions of MAUCRSA to update references to licensure to reflect the new operator, premises, and unified license types.

26) Delays implementation of most provisions of the bill until January 1, 2028.

27) Makes findings and declarations in support of the bill.

FISCAL EFFECT: According to the Senate Committee on Appropriations, unknown significant costs ranging in the millions of dollars to the DCC to modify its existing cannabis licensing framework.

COMMENTS:

Purpose. This bill is co-sponsored by the **Rural County Representatives of California** and the **California Cannabis Industry Association**. According to the author:

> "Senate Bill 1064 aims to modernize the state's cannabis licensing process by clarifying the roles of state and local governments in the licensing and oversight of cannabis businesses, eliminating duplication of efforts and reducing regulatory burdens while maintaining robust oversight to ensure compliance with regulations. This bill represents a crucial step forward in achieving key objectives to help support the state's legal and regulated cannabis industry by encouraging economic growth and stability, and expanding access to legal cannabis retail."

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 Senate Bill 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, Senate Bill 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.

Challenges in Implementing Cannabis Licensure. Language included in MAUCRSA authorized the state's cannabis licensing authorities to issue four month "temporary licenses" to applicants, which could be extended in 90-day increments. These temporary licenses allowed businesses to engage in commercial cannabis activity under state approval while local governments commenced with establishing their own local authorization processes and reviewing applications for local approval. Temporary licenses were issued without any fees and temporary licensees did not have access to the state's track and trace system.

While the intent of MAUCRSA was to transition businesses to full annual licensure no later than December 31, 2018—at which time temporary license authority was scheduled to expire—many local jurisdictions struggled to launch their approval programs. For example, by August of 2018, Humboldt County regulators had received 2,376 permit applications and only approved 240. Some jurisdictions issued temporary or provisional local permits, but had not completed the full process for local permitting.

One of the driving issues behind the delay with local authorization was the requirement that a "complete" application include evidence of compliance with CEQA. Signed into law by Governor Ronald Reagan in 1970, CEQA requires public agencies to consider the environmental impact of approving discretionary projects. While the scope of this process can vary based on the nature of the project, CEQA review can frequently be protracted and complex.

To transition away from temporary licensure while local authorization issues remained unresolved, the Legislature passed SB 1459 (Cannella) in 2018, which instead established a new "provisional license" scheme. Unlike temporary licenses, provisional license holders must pay a fee, comply with track and trace requirements, and meet additional responsibilities under MAUCRSA. However, provisional licensure does not require proof of compliance with the requirements of CEQA.

The authority to issue and renew provisional licenses was originally scheduled to sunset on January 1, 2020; this was subsequently extended to January 1, 2022. The 2021-22 Budget Act further extended this expiration date, prohibiting the DCC from renewing a provisional license after January 1, 2025 and sunsetting the provisional licensing program on January 1, 2026. Specific expiration dates and deadlines were applied to provisional licensees and applicants based on the size and nature of the business, and new requirements for certain applicants to submit documentation regarding lake or streambed alteration agreement were enacted.

According to information provided by the DCC in 2022, approximately 70 percent of licenses in California remain provisional. Discussions have continued around how to streamline the CEQA process and eliminate redundant reviews. However, CEQA is not the only barrier to licensees transitioning to full annual licensure; many policy organizations and advocates have long argued that the process of obtaining a license to operate is excessively bureaucratic and labyrinthine and that securing both state and local approval frequently involves duplicative and superfluous scrutiny.

Licensing Framework Reform. In February 2024, Cannabis Policy Lab (CPL), an organization established to assist governments and the public understand and engage in the state's cannabis laws, published *California Cannabis Report: Licensing and Market Access*.[1] In its executive summary, the report states: "Today, the complexities within California's cannabis laws are impeding government effectiveness, small business survival, and enforcement of public health and safety standards. The state must make a concerted effort to unravel those complexities and incorporate best practices from across the country if it wishes to remain a national leader."

The first of the recommendations published in CPL's report urged lawmakers to "simplify the state license structure." Specifically, the report recommended that cannabis business review be separated from location licensing, wherein state cannabis licensing would be restructured "so the cannabis business operator is reviewed and approved first, separately from the permit to perform cannabis activities at a specific location." The report argued that "separating operator review from location review would reduce the amount of time that an applicant must hold a physical location before becoming licensed, thus reducing upfront capital requirements. This would also allow local governments to cede some of the more specialized aspects of entity-level review to the state, if desired – including untangling multi-layered legal structures or criminal background review of owners."

This bill would implement this recommendation, along with others outlined in CPL's report. Beginning January 1, 2028, the process of applying to engage in commercial cannabis activity would be divided into two separate license types. First, an individual or entity would apply for, and receive, an operator license, at which time it would be determined if the applicant themselves meets the requirements to operate a cannabis business under MAUCRSA. Once an operator license has been obtained, the individual or entity would apply for one or more premises licenses, at which time it would be determined if the location where the operator intends to engage in cannabis activity is authorized by local government and conforms with the requirements for a premises under MAUCRSA.

One advantage of the new licensing framework proposed by this bill is that an individual or entity would not have to be reviewed as an operator each time they seek to engage in commercial cannabis activity in a new location, or to engage in a new type of commercial cannabis activity. For example, under the current system, if a licensee who already operates a licensed cannabis business to open a second location or engage in additional activities, would currently have to go through the entire application and review process as an operator even though nothing has changed about their qualifications to operate a business. This bill would allow for that review to only occur once when the business owner obtains an operator license; any new business locations would only require the review associated with obtaining a new premises license.

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[1] https://www.cannabispolicylab.com/research-and-analysis/2024-02/california-cannabis-report-licensing-and-market-access

This bill would additionally clarify the level of review that would be required at the state and local level, respectively. Under the new licensing framework, the DCC would still be engaged in "discretionary review" when considering an application for an operator license, determining whether to grant the license based on the parameters provided under MAUCRSA. However, when considering an application for a premises license, the DCC would be required to utilize a ministerial process using only fixed objective standards to confirm that the premises complies with the scope of local authorization and premises-specific requirements in MAUCRSA. This distinction further simplifies the review process at the state level simpler when a new premises is submitted for approval.

The new licensing framework providing for operator and premises licenses would apply to retail, distribution, processing and manufacturing license types. For individuals or entities seeking licensure to engage in cannabis cultivation or laboratory testing, they would continue to seek approval under a unified license scheme, where both the operator and the premises are approved simultaneously at the state and local level. This distinction recognizes the greater need for consideration of a prospective cannabis cultivator's community and environmental impacts when obtaining approval, as well as the necessary independence of testing laboratories that has long been established under MAUCRSA.

The licensing framework reforms contained in this bill, along with other minor revisions and updates to MAUCRSA consistent with CPL's recommendations, are intended to ease the license application process for both cannabis businesses, regulators, and local governments. When the provisions of this bill go into effect, the author believes that licensing timelines will shorten and applicants will be presented with a simpler application process. This transition would effectively serve as an additional form of streamlining and efficiency, furthering California's goals when it consolidated the state's cannabis licensing authorities into a unified department.

Current Related Legislation.

AB 2223 (Aguiar-Curry) would allow for cannabis licensees to manufacture, distribute, or sell products that contain industrial hemp and places additional restrictions on industrial hemp products containing THC or comparable cannabinoids. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

SB 1109 (Bradford) would require the DCC to collect voluntarily provided demographic data about individuals applying for an initial license or license renewal. *This bill is pending in the Assembly Committee on Judiciary.*

Prior Related Legislation.

AB 2540 (Chen) of 2024 would have authorized the DCC to transfer, assign, or reassign licenses for commercial cannabis activity. *This bill died in the Assembly Committee on Appropriations.*

AB 351 (Chen) of 2023 would have authorized the DCC to transfer, assign, or reassign licenses for commercial cannabis activity. *This bill died in the Assembly Committee on Appropriations.*

SB 51 (Bradford, Chapter 593, Statutes of 2023) authorized the DCC to continue to issue and renew provisional licenses to local equity applicants until January 1, 2031.

SB 833 (McGuire, Chapter 886, Statutes of 2023) required the DCC, no later than March 1, 2024, to begin allowing cultivators to select a smaller license type or place their license in inactive status.

AB 141 (Committee on Budget, Chapter 141, Statutes of 2021) extended the timeline for provisional licenses, prohibiting renewal after January 1, 2025.

AB 97 (Committee on Budget, Chapter 40, Statutes of 2019) extended the repeal date for the provisional license authority until January 1, 2022.

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 1459 (Cannella, Chapter 857, Statutes of 2018) authorized the state's cannabis licensing authorities to grant provisional licenses until January 1, 2020.

SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017) enacted MAUCRSA and authorized the state's cannabis licensing authorities to grant temporary licenses.

ARGUMENTS IN SUPPORT:

The **Rural County Representatives of California** and the **California Cannabis Industry Associations**, who are co-sponsoring this bill, write in support alongside the **League of California Cities** and the **California State Association of Counties**: "SB 1064 addresses several key challenges faced by cannabis businesses operating in California. One of the most pressing issues is the complexity and inefficiency of the current licensing system, which requires businesses to obtain multiple licenses for different activities conducted at a single location. This not only creates unnecessary administrative burdens for businesses but also increases processing times and costs for both applicants and regulatory agencies." The bill's sponsors and supporters further argue that "this bill seeks to reduce unnecessary complexity and duplication within the cannabis regulatory environment which is impeding government's ability to license businesses in a reasonable timeframe and complicating efforts to enforce the law. By doing so, it seeks to reduce challenges and barriers to basic compliance for businesses."

ARGUMENTS IN OPPOSITION:

None on file.

REGISTERED SUPPORT:

California Cannabis Industry Association *(Co-Sponsor)*
Rural County Representatives of California *(Co-Sponsor)*
California State Association of Counties
Good Farmers Great Neighbors
League of California Cities

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1233 (Wilk) – As Amended May 16, 2024

NOTE: This bill is double referred and previously passed the Assembly Committee on Higher Education with a vote of 10-0-1.

SENATE VOTE: 38-0

SUBJECT: University of California: Western University of Health Sciences: veterinary medicine: spay and neuter techniques

SUMMARY: Requests the Regents of the University of California (UC), and the governing body of Western University of Health Sciences, to develop "high-quality, high-volume" spay and neuter certification programs at their respective veterinary medicine institutions, upon appropriation by the Legislature.

EXISTING LAW:

1) Establishes, under the California Constitution, the UC as a public trust to be administered by the Regents of the UC with full powers of organization and government, subject only to such legislative control as may be necessary to insure the security of its funds and compliance with the terms of the endowments of the university, and such competitive bidding procedures as may be made applicable to the university for construction contracts, selling real property, and purchasing materials, goods and services. (Constitution of California, Article IX, Section 9)

2) States, under the California Constitution, that the university be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs. (Constitution of California, Article IX, Section 9 (f))

3) Provides that statutes related to UC, and most other aspects of the governance and operation of UC, are applicable only to the extent that the Regents of UC make such provisions applicable. (Education Code (EDC) Section 67400)

4) Declares the UC as the primary state-supported academic agency for research. (EDC Section 66010.4 (c))

5) Provides for the regulation of veterinary medicine under the Veterinary Medicine Practice Act (Act) and prohibits the practice unlicensed of veterinary medicine. (Business and Professions Code (BPC) §§ 4800-4917)

6) Establishes the Veterinary Medical Board (VMB) within the Department of Consumer Affairs (DCA) to license and regulate the veterinary medicine profession. (BPC § 4800)

7) Declares it is unlawful to practice veterinary medicine in California unless the individual holds a valid, unexpired, and unrevoked license issued by the VMB. (BPC § 4825)

8) Requires all veterinarians engaged and employed as veterinarians by the state, or a county, city, corporation, firm, or individual to secure a license issued by the VMB. (BPC § 4828)

9) Requires the VMB to adopt regulations delineating animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed solely by an RVT or licensed veterinarian. (BPC § 4836(a))

10) Requires that, among other things, an individual licensed to practice veterinary medicine graduate from a veterinary college recognized by the VMB, or receive a certificate from the Educational Commission for Foreign Veterinary Graduates (ECFVG) or the Program for the Assessment of Veterinary Education Equivalence (PAVE). (BPC § 4846(a)(1))

11) Clarifies that, if the veterinary college from which an applicant is graduated is not recognized by the VMB, the VMB shall have the authority to determine the qualifications of such graduates and to review the quality of the educational experience attained by them in an unrecognized veterinary college. (BPC § 4846.1)

12) Requires that, with limited exceptions, the VMB issue renewal licenses only to those applicants that have completed a minimum of 36 hours of continuing education in the preceding two years. (BPC § 4846.5)

THIS BILL:

1) Requests, upon an appropriation, the Regents of the UC and the governing body of the Western University of Health Sciences College of Veterinary Medicine to develop high-quality, high-volume spay and neuter certification programs to be offered as elective coursework to students enrolled at their respective institutions.

2) Provides that this bill applies to UC only to the extent that the UC Regents agree by resolution, and to the Western University of Health Sciences if agreed upon by the Office of the Provost.

3) Authorizes a certification program to charge a reasonable fee to cover the costs associated with offering the program to a California-licensed veterinarian or a California-registered veterinary technician. This bill requires the fee to be paid directly to the university offering the program.

4) Prohibits this bill from authorizing California-registered veterinary technicians to perform surgical procedures.

5) Requires the certification programs to do all of the following:

    a) Provide training in techniques to facilitate safe and efficient ovariectomy, ovariohysterectomy, and gonadectomy of cats and dogs;

    b) Use and support best practices for high-quality, high-volume spay and neuter procedures and services;

c) Consist of both classroom and surgery lab training; and,

d) Require students to successfully complete a number of ovariectomies, ovariohysterectomies, and gonadectomies under the high-quality, high-volume spay and neuter model, as determined by the programs.

6) Requires the UC and the Western University of Health Sciences College of Veterinary Medicine to allow California-licensed veterinarians and California-registered veterinary technicians to enroll in the certification program for continuing education and certification purposes.

7) Requires a university that offers the certification program to provide a California-licensed veterinarian or California-registered veterinary technician who successfully completed the certification program with a certificate of completion and a written confirmation of the number of hours spent in active high-quality, high-volume spay and neuter practice.

8) Requires a California-licensed veterinarian or California-registered veterinary technician who successfully completed the certification program to receive continuing education credit for program participation.

9) Requires the curriculum offered to a California-registered veterinary technician to be consistent with current law and include, among other topics, all of the following:

a) Surgical preparation of the patient;

b) Anesthesia induction and maintenance;

c) Subcutaneous and cutaneous tissue closure;

d) Anesthesia recovery; and,

e) Emergency and critical care considerations using techniques under the high-quality, high-volume spay and neuter model.

10) Requires a certification program to do all of the following:

a) Make available to the public low- or no-cost ovariectomies, ovariohysterectomies, or gonadectomies for cats and dogs that are performed by students or California-licensed veterinarians enrolled in the program;

b) Develop policies and procedures that prioritize qualifying for the services above based on, at a minimum, income and socioeconomic status; and,

c) Ensure that the training and care provided or coordinated by the program is at a standard of care that is consistent with those standards of care generally accepted within the veterinary profession.

11) Requires a university that offers a certification program to publicly publish, every three years, a progress report that describes the activities of the program. Requires the progress report to include, but not be limited to, all of the following information:

    a) The number of cat and dog ovariectomies, ovariohysterectomies, and gonadectomies performed under the certification program;

    b) The number of certifications issued by the program;

    c) The costs associated with implementing and administering the program; and,

    d) The subsidized cost, if any, of surgical services provided to the public.

12) Requires a university that offers a certification program to determine the best available location or locations to host the program including, but not limited to, any of the following locations:

    a) On-campus facilities;

    b) A public animal control agency or shelter;

    c) A society for the prevention of cruelty to animals shelter;

    d) A humane society shelter; and,

    e) A rescue group shelter.

13) Authorizes the Regents of UC and the governing body of the Western University of Health Sciences to seek private fund donations.

FISCAL EFFECT: According to the Senate Committee on Appropriations, this bill provides that the certification programs would be contingent upon an appropriation by the Legislature, resulting in additional General Fund cost pressures. The UC estimates one-time costs of $10 million to renovate its current facility at UC Davis to create new surgery and animal holding facilities, and ongoing costs of approximately $1 million each year for 7.0 positions to run the new certification program and purchase surgical supplies. The bill specifies that the UC and the governing body of the Western University of Health Sciences may seek private fund donations to develop the programs

COMMENTS:

Purpose. This bill is sponsored by the **California Veterinary Medical Association.** According to the author:

> The overcrowding crisis at our animal shelters, especially in the High Desert, highlights the severe shortage of veterinarians available to perform critical spay and neuter services. We have a responsibility to address this issue. This bill will help create a skilled workforce

capable of performing those services, which will, in turn, reduce overcrowding, eliminate unnecessary euthanizations, and make it easier to find homes for pets in need.

Background.

Efforts to Encourage Pet Sterilization. Over the past several years, California has made efforts to humanely reduce animal overpopulation and encourage the spay and neuter of dogs and cats across the state. In 1998, the Legislature enacted Senate Bill 1785 by Senator Tom Hayden, which formally established that the State of California's policy is "that no adoptable animal should be euthanized if it can be adopted into a suitable home" and "that no treatable animal should be euthanized." As part of these goals, and overall efforts to reduce pet overpopulation that leads to euthanasia, this bill and subsequent legislation established a mandate that no public or private animal shelter, humane society, rescue group or other nonprofit shall adopt out any dog or cat that has not been sterilized, subject to very limited exceptions.

More recent, after a successful campaign by the sponsor of this bill and the VMB, a Pet Lover's License Plate program was established in 2012, and in 2014, SB 1323 (Lieu) was enacted to allocate the proceeds from purchases of this specialty license plate to fund a grant program to eligible veterinary facilities that offer low-cost or no-cost animal sterilization services under the VMB. The most recent distribution of grand funding in 2023 allocated approximately $488,000. This consisted of an estimated amount of $25,000 – $50,000 per award.

The Legislature enacted AB 485 (Williams) in 2015 to create a voluntary tax return checkoff to provide revenue to a Prevention of Animal Homelessness and Cruelty Fund. This checkoff allocates money to local animal control agencies and shelters to support spay and neuter activities and to prevent and eliminate dog and cat homelessness. In 2022, a total of $308,449 was contributed through the checkoff, and approximately $250,000 was awarded that year to eligible agencies, with an estimated amount of $7,500 – $22,500 per award.

In February of 2022, the California for All Animals program was launched to advance marketing and outreach efforts designed to engage shelters in every region of the state that met the goals outlined in the Animal Shelter Assistance Act. $15.5 million in grant awards have since been awarded, along with $12.5 million for in-person visits, trainings, outreach, and program expenses. Grant funding is prioritized for programs to increase low-cost and free spay/neuter services, access to low cost and free veterinary care to prevent owner relinquishment to animal shelters, and programs that reunite lost pets with their owners and incentivize making adoption accessible for all communities.

Finally, last year the Assembly and Senate passed ACR 86 authored by Assemblymember Kalra. This resolution puts a spotlight on the national and statewide pet overpopulation crisis, noting the increase in pet adoptions and purchases throughout the COVID-19 pandemic which exacerbated these issues. This resolution also notes the lack of low-cost and free spay and neuter options, as well as disparities in access to veterinary care. This resolution made a commitment to pursue policies that increase the availability of low-cost, high volume spay and neuter and encourage more out-of-state veterinarians and RVTs to perform and assist with sterilization.

Earlier this year, this committee considered AB 2133 by Assemblymember Kalra, which would have authorized registered veterinary technicians to perform cat neuter surgeries, subject to

specified requirements and conditions. Despite passing this committee with recommended amendments, it was held in the Assembly Committee on Appropriations. This bill – sponsored by the California Veterinary Medical Association, who were opposed to AB 2133 - takes an alternate approach within the same spirit of that legislation, requesting that, upon a future appropriation, the Regents of the UC and the governing body of Western University of Health Sciences develop "high-quality, high-volume" spay and neuter certification programs at their respective veterinary medicine institutions.

Accredited veterinary schools. Currently, California accredits two veterinary schools – the UC Davis School of Veterinary Medicine in Davis, and the Western University of Health Sciences in Pomona. In particular, UC Davis oversees the Koret Shelter Medicine Program (KSMP), with research specializing in the state's adoption outcomes and shelter management improvement. Among other research projects and initiatives, KSMP administers the $50 million "California for All Animals" grant program established in the 2020-21 budget which aims to fulfill the state's goal that no healthy animal is euthanized in a shelter. Leadership from both schools work closely through veterinary and educational associations to develop and evolve their curriculum and programming, and seem well-equipped to develop the programming requested in this legislation, subject to sufficient funding.

Current Related Legislation.

AB 2012 (Lee) would have required the California Department of Public Health (CDPH) to collect specified data from public animal shelters as part of their annual rabies control activities reporting, and authorized the CDPH to contract out this requirement to a California accredited veterinary school. *This bill was held in the Assembly Committee on Appropriations.*

AB 2133 (Kalra) would have authorized registered veterinary technicians to perform cat neuter surgery, subject to specified conditions. *This bill was held in the Assembly Committee on Appropriations.*

Prior Related Legislation.

AB 1535 (Committee on Business and Professions) Chapter 631, Statutes of 2021, enacted various changes to the regulation of veterinarians, RVTs, Veterinary Assistant Controlled Substances Permit (VACSP) holders, veterinary schools, and veterinary premises, stemming from the joint sunset review oversight of the Veterinary Medical Board (Board) by the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development.

SB 1347 (Galgiani) from 2020 would have expanded exemptions to the practice of veterinary medicine to include specified functions performed at a shelter, as defined, by an employee or volunteer who has obtained specified training. *This bill was held in the Assembly Committee on Appropriations.*

AB 485 (Williams) Chapter 557, Statutes of 2015, created a voluntary tax return checkoff to provide revenue to a Prevention of Animal Homelessness and Cruelty Fund, which allocates money to local animal shelters to support spay and neuter activities and eliminate dog and cat homelessness.

SB 1323 (Lieu) Chapter 375, Statutes of 2014 appropriated money collected from the Pet Lover's License Plate Program to the Veterinary Medical Board for the sole and exclusive purpose of funding grants to providers of no-cost or low-cost animal sterilization services.

SB 1785 (Hayden) Chapter 752, Statutes of 1998 established, among other things, that the State of California's policy is that no adoptable animal should be euthanized if it can be adopted into a suitable home, and policies promoting the spay and neuter of dogs and cats in the state.

ARGUMENTS IN SUPPORT:

This bill is sponsored by the **California Veterinary Medical Association (CVMA).** CVMA writes: "CVMA has been in regular contact with the two veterinary schools affected by the bill and we look forward to continuing our positive conversations with them relative to the best way for the schools to implement this game-changing endeavor."

REGISTERED SUPPORT:

California Veterinary Medical Association (sponsor)
Humane Society of the United States
Humane Society Veterinary Medical Association

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing:

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1449 (Newman) – As Amended June 10, 2024

NOTE: This bill is double referred to the Assembly Higher Education Committee, where it passed, 9-0.

SENATE VOTE: 38-0

SUBJECT: California Private Postsecondary Education Act of 2009: complaint processing contracts

SUMMARY: Authorizes law schools that are exempt from oversight by the Bureau for Private Postsecondary Education (BPPE or Bureau) to contract with the Bureau for complaint handling services until December 31, 2029.

EXISTING LAW:

Federal Law

1) Specifies that an institution, as described, is legally authorized by a State if the State has a process to review and appropriately act on complaints concerning the institution including enforcing applicable State laws, and the institution meets specified provisions. (Code of Federal Regulations, Title 34, § 600.9)

State Law

1) Enacts the California Private Postsecondary Education Act (Act) to provide for the regulation and oversight of private postsecondary schools, subject to repeal on January 1, 2027. (Education Code (EDC) §§ 94800 *et seq.*)

2) Establishes the BPPE within the Department of Consumer Affairs to regulate private postsecondary educational institutions under the Act. (EDC § 94820)

3) Exempts from the Act a law school that is accredited by the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association or a law school or law study program that is subject to the approval, regulation, and oversight of the California State Bar's Committee of Bar Examiners, as specified. (EDC § 94874(g)

4) Authorizes an independent institution, as defined, to execute a contract with the BPPE for the Bureau to review, and, as appropriate, act on complaints concerning the institution, in accordance with federal regulations. (EDC § 94874.9(b))

5) Provides that the execution of a contract by the BPPE with an institution shall constitute establishment by the state of that institution to offer programs beyond secondary education,

including programs leading to a degree or certificate, in accordance with federal regulations. (EDC § 94874.9(c))

6) Provides that the BPPE shall use a standard form contract. (EDC § 94874.9(d))

7) Specifies that a contract meet minimum requirements, as specified. (EDC § 94874.9(e)(1)(A)-(D))

8) Provides that the Bureau may terminate a contract if an institution is no longer an independent institution of higher education, as defined, or fails to comply with the provisions of the contract. (EDC § 94874.9(f))

9) Requires all moneys collected by the BPPE that relate to a contract to be deposited in the Private Postsecondary Education Administration Fund. (EDC § 94874.9(g))

10) Requires the Bureau to maintain on its website both of the following:

    a) The provisions of the standard form contract.

    b) A list of institutions with which BPPE has executed a contract.

    (EDC § 94874.9(h))

THIS BILL:

1) Authorizes a law school that meets the requirements to be exempt from BPPE oversight that executed a contract with the Bureau between 2018 and 2023 for complaint processing to execute a contract for the same purpose until December 31, 2029.

FISCAL EFFECT: According to the Senate Appropriations Committee, the BPPE estimates the following:

1) Annual revenue reduction of $60,000, as the impacted law school would no longer have to pay fees to the Bureau (Private Postsecondary Education Administration Fund).

2) Minimal decrease in administrative workload, as the impacted law school would still contract with the Bureau for its complaint servicing in order to maintain federal financial aid eligibility.

3) Unknown fiscal impact to the Student Tuition Recovery Fund (STRF), as the impacted law school would no longer be required to participate in the program and collect an assessment from students to contribute to STRF.

COMMENTS:

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

> For more than 110 years, Southwestern Law School has provided Californians with affordable and high-quality legal instruction. Its roster of distinguished alumni includes

> numerous members of the Legislature, statewide constitutional officers, justices of the California Supreme Court, members of Congress, and even California's first African American and Latina judges. [This bill] will provide Southwestern Law School with temporary regulatory relief as it continues to work through the process of [Western Association of Schools and Colleges] accreditation, thereby providing the same exemption from Bureau (Bureau) regulations that many other California law schools of the same caliber currently enjoy.

Background.

Bureau for Private Postsecondary Education. Since January 1, 2010, the Act, implemented and enforced by the Bureau, has governed postsecondary educational institutions operating in California. Private postsecondary educational institutions with a physical presence in California are subject to the Act, except for those specifically exempted. The Bureau also registers specified out-of-state institutions serving California students via distance learning. According to its mission statement, "the Bureau protects students and consumers in California and beyond, through the oversight of California's private postsecondary educational institutions, by conducting qualitative reviews of educational programs and operating standards, proactively combating unlicensed activity, impartially resolving student and consumer complaints, and providing support and financial relief to harmed students."[1]

Federal State Authorization Regulations. On July 1, 2011, federal regulations began requiring, as a condition of Title IV Federal Student Aid program eligibility, that higher education institutions be legally authorized by a state to provide postsecondary education programs and that the state have a process in place to review and act upon student complaints about that institution.[2] Enforcement of the regulations were stayed until July 1, 2015 to allow states and institutions to prepare. In anticipation of the regulations taking full effect in 2015, the Legislature passed SB 81 (Committee on Budget and Fiscal Review), Chapter 22, Statutes of 2015, which authorized private, *nonprofit* colleges and universities to contract with the BPPE for the Bureau to review and act on complaints concerning the institution.[3] In 2023, SB 142 (Senate Committee on Budget and Fiscal Review), Chapter 195, Statutes of 2023, subsequently required qualifying institutions approved by the Commission on Teaching Credentialing for the Golden State Teacher Grant Program that do not have a physical presence in California to comply with applicable provisions of the Act and contract with the Bureau to respond to complaints from California resident students. As of June 18, 2024, the Bureau contracts with 106 schools for complaint processing.

Need for the bill. The Act specifically exempts from BPPE oversight law schools that are accredited by the American Bar Association (ABA) or that are subject to the approval, regulation, and oversight by the California State Bar's Committee of Bar Examiners (CBE). The

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[1] Bureau for Private Postsecondary Education. (n.d.). *About Us.* https://www.bppe.ca.gov/about_us/

[2] Federal Student Aid an Office of the U.S. Department of Education. (n.d.). *(GEN-15-10) (GEN-15-10) Subject: State Authorization Regulations Effective Date July 1, 2015.* https://fsapartners.ed.gov/knowledge-center/library/dear-colleague-letters/2015-06-19/gen-15-10-subject-state-authorization-regulations-effective-date-july-1-2015

[3] The BPPE reviews and act on complaints concerning private, for-profit colleges and universities and the governing boards of the University of California, California State University, and California Community College systems fulfill this role on behalf of students attending in-state, public colleges and universities in California.

Act also exempts higher education institutions that are accredited by the Western Association of Schools and Colleges (WASC). However, while existing law allows WASC-accredited institutions to contract with the Bureau for complaint processing, law schools that are ABA-accredited or subject to CBE approval, regulation, and oversight, but are not additionally WASC-accredited, must apply for approval to operate from the Bureau in order for the bureau to review and act on complaints concerning the institution. However, from 2015 to 2023, Southwestern Law School, which is ABA-accredited but not WASC-accredited, was erroneously permitted to contract with the Bureau for complaint handling. Since 2023, Southwestern Law School has been required to get an approval to operate from the Bureau, which requires compliance with minimum operating standards, numerous reporting requirements, and payment of an annual fee of $60,000.

This bill would allow a law school that is exempt from the Act due to its ABA accreditation and that contracted with the Bureau for complaint handling between 2018 and 2023 to continue to do so until December 31, 2029. This committee is only aware of one law school that would benefit from this allowance—the bill's sponsor, Southwestern Law School. Representatives for Southwestern Law School say the school is currently pursuing WASC accreditation, which would allow the school to contract with the Bureau for complaint handling beyond 2029.

Current Related Legislation.

AB 3167 (Chen) would authorize, beginning July 1, 2025, a "highly qualified nonprofit institution," as specified, to register with the BPPE in lieu of seeking an approval to operate.

Prior Related Legislation.

SB 142 (Senate Committee on Budget and Fiscal Review), Chapter 195, Statutes of 2023, as it relates to this bill, required qualifying institutions approved by the Commission on Teaching Credentialing for the Golden State Teacher Grant Program that do not have a physical presence in California to comply with applicable provisions of the Act and contract with the Bureau to respond to complaints from California resident students.

SB 1433 (Roth), Chapter 544, Statutes of 2022, as it relates to this bill, allowed an out-of-state public institution of higher education, as specified, that maintains a physical presence in this state to apply for an approval to operate from the BPPE for purposes of the Bureau handling complaints against the institution.

AB 70 (Berman), Chapter 153, Statutes of 2020, prohibited the Bureau from approving an exemption or handling complaints for a nonprofit institution that the AG determines does not meet specified criteria of a nonprofit corporation.

SB 81 (Committee on Budget and Fiscal Review), Chapter 22, Statutes of 2015, as it relates to this bill, authorized private, nonprofit colleges and universities to contract with the Bureau for the Bureau to review and act on complaints concerning the institution.

ARGUMENTS IN SUPPORT:

The *Southwestern Law School* writes in support as the sponsor of this bill:

> [This bill] exempts Southwestern from separate and conflicting reporting required by state law. It returns to the status quo that existing without any issues since at least July 2015. It allow allows Southwestern's faculty and staff to focus on the program of legal education instead of diverting previous human and financial resources on implementing a second compliance regime that largely duplicates topics occurred by the ABA accreditation standards but implements them in a way that requires two parallel systems that are both costly to implement, maintain and conflicting in terms of actual reporting requirements. Instead of promoting consumer protection, the conflicting processes and reports increase costs to students, confuse applicants attempting to compare multiple ABA-accredited law schools, increase the costs students must pay to attend Southwestern, and reduce the direct services Southwestern can offer due to the costs required to maintain BPPE compliance on top of the ABA compliance.

ARGUMENTS IN OPPOSITION:

The *Institute for College Access & Success* writes in opposition to this bill:

> While we acknowledge the bill's intent to provide regulatory relief to Southwestern Law School and similar independent, non-profit law schools accredited by the American Bar Association (ABA) as they undergo accreditation by the Western Association of Schools and Colleges (WASC), we have significant concerns regarding its policy and fiscal implications. Federal rules are currently being developed that conduct a comprehensive regulatory review of accreditation and [this bill] would precede these federal rules. Introducing state legislation before forthcoming federal rules are established puts California at risk of being out of alignment with future federal regulations. The proposed federal rules aim to address the issue of accrediting bodies allowing non-compliant institutions to remain in good standing for years, despite identifying compliance problems. Some accreditor standards are so lenient that institutions can meet them without demonstrating minimal student success, leading to persistently low-value programs and institutions that can harm students.

IMPLEMENTATION ISSUES:

Ability to act on complaints. Federal regulations specify that in order for a postsecondary institution to receive state authorization the state must have a process to review *and appropriately act* on complaints concerning the institution. Because BPPE does not have any authority over postsecondary institutions that it does not approve or regulate, BPPE has limited ability to act on complaints beyond referring them to the institutions that are subject the complaints or other agencies (such as accrediting agencies). It is unclear whether this process provides the level of consumer protection envisioned by state authorization requirements.

REGISTERED SUPPORT:

Southwestern Law School (Sponsor)

REGISTERED OPPOSITION:

The Institute for College Access & Success

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1451 (Ashby) – As Amended June 19, 2024

SENATE VOTE: 36-0

SUBJECT: Professions and vocations

SUMMARY: Authorizes registered dental hygienists in alternative practice (RHDAPs) to continue to provide services in an area that has been decertified as a dental health professional shortage area; updates existing restrictions on the use of the words "doctor" or "physician" or similar terms by individuals not licensed as physicians and surgeons; makes changes to the requirements for nurse practitioners (NPs) practicing independent of standardized procedures; expressly authorizes licensed vocational nurses (LVNs) who have completed additional training to perform certain respiratory care services in specified settings; requires pharmacists who dispense or furnish a dangerous drug pursuant to a veterinary prescription to offer specified drug documentation as part of their consultation; and makes various other changes to practice acts administered by boards and bureaus under the Department of Consumer Affairs (DCA).

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. (BPC § 101)

3) 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.*)

4) Establishes the Department of Health Care Access and Information (HCAI), vested with responsibilities related to health planning and research development relating to the health professional workforce. (Health and Safety Code (HSC) §§ 127000 *et seq.*)

5) Provides that the DHBC shall issue a license as an RDHAP to a registered dental hygienist who meets additional specified education and training requirements or to a person who has received a letter of acceptance into the employment utilization phase of the Health Workforce Pilot Project No. 155 established by HCAI. (BPC § 1922)

6) Authorizes RDHAPs to practice as an employee of a dentist or of another RDHAP, as an independent contractor, as a sole proprietor of an alternative dental hygiene practice, or in specified clinic settings. (BPC § 1925)

7) Additionally authorizes an RDHAP to perform specified duties in the following settings:

    a) Residences of the homebound.

b) Schools.

c) Residential facilities and other institutions and medical settings that a residential facility patient has been transferred to for outpatient services.

d) Dental health professional shortage areas, as certified by HCAI in accordance with existing office guidelines.

e) Dental offices.

(BPC § 1926)

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

9) Establishes the Osteopathic Medical Board of California (OMBC) within the DCA to regulate osteopathic physicians and surgeons under the Osteopathic Act who possess the same privileges as licensees regulated by the MBC. (BPC §§ 2450 *et seq.*)

10) Declares that protection of the public shall be the highest priority for both the MBC and the OMBC in exercising their respective licensing, regulatory, and disciplinary functions, and that whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (BPC § 2001.1; § 2450.1)

11) Provides that any person who practices or attempts to practice, or who advertises or holds themselves out as practicing, any system or mode of treating the sick or afflicted in California, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as a physician and surgeon or without being otherwise authorized to perform the act is guilty of a crime. (BPC § 2052)

12) Requires a person who provides certain alternative or complementary to healing arts services and who is not a licensed physician and surgeon to make a written disclosure to the client that they are not a licensed physician and that the services to be provided are not licensed by the state, among other disclosures. (BPC § 2053.6)

13) Prohibits any person who does not have a valid, unrevoked, and unsuspended certificate as a physician and surgeon from the MBC from using the words “doctor” or “physician,” the letters or prefix “Dr.,” the initials “M.D.,” or any other terms or letters indicating or implying that they are a physician and surgeon, with certain exceptions. (BPC § 2054)

14) Allows a person who has been issued a physician’s and surgeon’s certificate by the MBC to use the initials “M.D.” (BPC § 2055)

15) Provides that nothing in the Medical Practice Act shall be construed as limiting the practice of other persons licensed, certified, or registered under any other provision of healing arts law when that person is engaged in their authorized and licensed practice. (BPC § 2061)

16) Makes it unlawful for any healing arts licensee to publically communicate a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services in connection with the professional practice or business for which they are licensed. (BPC § 651)

17) Makes it unlawful for any person to make or disseminate any statement in the advertising of services, professional or otherwise, which is untrue or misleading. (BPC § 17500)

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

19) Defines "the practice of nursing" as functions, including basic healthcare, that help people cope with or treat difficulties in daily living that are associated with their actual or potential health or illness problems, and that require a substantial amount of scientific knowledge or technical skill. (BPC § 2725)

20) Includes within the scope of nursing practice the following:

    a) Direct and indirect patient care services that ensure the safety, comfort, personal hygiene, and protection of patients; and the performance of disease prevention and restorative measures. (BPC § 2725(b)(1))

    b) Direct and indirect patient care services, including the administration of medications and therapeutic agents, necessary to implement a treatment, disease prevention, or rehabilitative regimen ordered by and within the scope of licensure of a physician, dentist, podiatrist, or clinical psychologist. (BPC § 2725(b)(2))

    c) The performance of skin tests, immunization techniques, and the withdrawal of human blood from veins and arteries. (BPC § 2725(b)(3))

    d) Observation of signs and symptoms of illness, reactions to treatment, general behavior, or general physical condition, and determination of whether the signs, symptoms, reactions, behavior, or general appearance exhibit abnormal characteristics, and implementation, based on observed abnormalities, of appropriate reporting, or referral, or standardized procedures, or changes in treatment regimen in accordance with "standardized procedures," or the initiation of emergency procedures. (BPC § 2725(b)(4))

21) Defines "standardized procedures" as either of the following:

    a) Policies and protocols developed by a licensed health facility through collaboration among administrators and health professionals including physicians and nurses. (BPC § 2725(c)(1))

    b) Policies and protocols developed through collaboration among administrators and health professionals, including physicians and nurses, by an organized healthcare system that is not a licensed health facility. (BPC § 2725(c)(2))

22) Establishes standardized procedure guidelines jointly promulgated by the Medical Board of California and the BRN. (California Code of Regulations (CCR), Title 16, § 1474)

23) Requires standardized procedures to include a written description of the method used during development and approval. (CCR, tit. 16, § 1474(a))

24) Specifies the required form and content of standardized procedures, including that they are in writing and signed, specify the authorized functions, establish procedure protocols, detail education and training requirements, provide for evaluation and of authorized nurses, provide for the maintenance of records of authorized nurses, establish the scope of physician supervision, set forth circumstances requiring physician consultation, state limitations on settings, specify patient record keeping requirements, and provide for periodic review of the standardized procedures. (CCR, tit. 16, § 1474(b))

25) Establishes a category of advanced practice registered nurses known as NPs, and specifies the requirements for certification. (BPC §§ 2834-2837.105)

26) Establishes the following categories of NP:

    a) Family/individual across the lifespan. (CCR, tit. 16, § 1481(a)(1))

    b) Adult-gerontology, primary care or acute care. (CCR, tit. 16, § 1481(a)(2))

    c) Neonatal. (CCR, tit. 16, § 1481(a)(3))

    d) Pediatrics, primary care or acute care. (CCR, tit. 16, § 1481(a)(4))

    e) Women's health/gender-related. (CCR, tit. 16, § 1481(a)(5))

    f) Psychiatric-Mental Health across the lifespan. (CCR, tit. 16, § 1481(a)(6))

27) Authorizes an NP who meets specified requirements, commencing January 1, 2023, to perform the following procedures independent of standardized procedures and physician oversight:

    a) Conduct an advanced assessment. (BPC § 2837.103(c)(1))

    b) Order, perform, and interpret diagnostic procedures. (BPC § 2837.103(c)(2)(A))

    c) For radiologic procedures, a nurse practitioner can order diagnostic procedures and utilize the findings or results in treating the patient. A nurse practitioner may perform or interpret clinical laboratory procedures that they are permitted to perform under Section 1206 and under the federal Clinical Laboratory Improvement Act (CLIA). (BPC § 2837.103(c)(2)(B))

    d) Establish primary and differential diagnoses. (BPC § 2837.103(c)(3))

    e) Prescribe, order, administer, dispense, procure, and furnish therapeutic measures, including, but not limited to, the following:

i) Diagnose, prescribe, and institute therapy or referral of patients to health care agencies, health care providers, and community resources. (BPC § 2837.103(c)(4)(A))

ii) Prescribe, administer, dispense, and furnish pharmacological agents, including over-the-counter, legend, and controlled substances. (BPC § 2837.103(c)(4)(B))

iii) Plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions, including, but not limited to, durable medical equipment, medical devices, nutrition, blood and blood products, and diagnostic and supportive services, including, but not limited to, home health care, hospice, and physical and occupational therapy. (BPC § 2837.103(c)(4)(C))

f) After performing a physical examination, certify disability. (BPC § 2837.103(c)(5))

g) Delegate specified tasks to a medical assistant. (BPC § 2837.103(c)(6))

28) Requires an NP who seeks to practice independent of standardized procedures to obtain certification from the BRN and complete a "transition to practice" in California of a minimum of three full-time equivalent years of practice or 4,600 hours. (BPC § 2837.103(a)(1)(D); CCR, tit. 16, §§ 1482.3, 1482.4).

29) Defines "transition to practice" as additional clinical experience and mentorship provided to prepare a nurse practitioner to practice independently, including managing a panel of patients, working in a complex health care setting, interpersonal communication, interpersonal collaboration and team-based care, professionalism, and business management of a practice. (BPC § 2837.101(c))

30) Requires the BRN to, by regulation, define minimum standards for transition to practice and specifies that clinical experience may include experience obtained before January 1, 2021, if the experience meets the requirements established by the BRN. (BPC § 2837.101(c))

31) Requires an NP who seeks to practice independent of standardized procedures to prove completion of a transition to practice by submitting to the BRN one or more attestations of a physician or surgeon or another NP already authorized to practice independent of standardized procedures; requires an attesting physician or surgeon or NP practicing to specialize in the same specialty area or category in which the applicant seeks certification as an NP; and prohibits the attester from having a familial or financial relationship with the applicant. (CCR, tit. 16, §§ 1482.3(a)(13), 1482.4(a)(13))

32) Requires the transition to practice to be completed within five years prior to the date the applicant applies for certification as an NP practicing independent of standardized procedures. (CCR, tit. 16, §§ 1482.3(a)(13)(A)(ii), 1482.4(a)(13)(A)(ii))

33) Requires the transition to practice to be completed in direct patient care and in the same category of NP practice in which the applicant seeks certification. (CCR, tit. 16, § 1482.3(a)(13)(A)(iv), 1482.4(a)(13)(A)(iv))

34) Authorizes an NP who meets all of the requirements for practice independent of standardized procedures to practice in one of the following settings or organizations in which one or more physician and surgeons practice with the NP:

    a) A clinic. (BPC § 2837.103(a)(2)(A))

    b) A health facility, except for correctional treatment centers and state hospitals. (BPC § 2837.103(a)(2)(B))

    c) A county medical facility. (BPC § 2837.103(a)(2)(C))

    d) Any lawfully organized group of physicians and surgeons that provides health care services. (BPC § 2837.103(a)(2)(D))

    e) A home health agency. (BPC § 2837.103(a)(2)(E))

    f) A licensed hospice facility. (BPC § 2837.103(a)(2)(F))

35) Authorizes an NP who has practiced in good standing for three years independent of standardized procedures to seek a certificate from the BRN to practice outside of the settings in which one or physician and surgeons practice. (BPC § 2837.104(b); (CCR, tit. 16, § 1482.4(a)(14))

36) Requires an NP to verbally inform all new patients in a language understandable to the patient that a nurse practitioner is not a physician and surgeon, for purposes of Spanish language speakers, use standardized phrase "enfermera especializada." (BPC §§ 2837.103(d), 2837.104(d); CCR, tit. 16, § 1487(b))

37) Requires an NP, except when working in facilities under the Department of Corrections and Rehabilitation, to advise patients that they have the right to see a physician and surgeon on request and the circumstances under which they must be referred to see a physician and surgeon. (CCR, tit. 16, § 1487(c))

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

39) Establishes the Respiratory Care Board of California (RCB) within the DCA to regulate respiratory care practitioners under the Respiratory Care Practice Act. (BPC §§ 3700 *et seq.*)

40) Defines respiratory care practice as a health care profession employed under the supervision of a medical director in the therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities which affect the pulmonary system and associated aspects of cardiopulmonary and other systems functions, as specified. (BPC §§ 3702; 3702.7)

41) Provides that the practice of respiratory care shall be performed under the supervision of a medical director in accordance with a prescription of a physician and surgeon or pursuant to respiratory care protocols. (BPC § 3703)

42) Specifies activities that are not prohibited by the Respiratory Care Act, including:

    a) The performance of respiratory care that is an integral part of the program of study by students enrolled in approved respiratory therapy training programs.

    b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold themselves out to be a respiratory care practitioner licensed under the provisions of the Act.

    c) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formal or specialized training.

    d) The performance of respiratory care in an emergency situation by paramedical personnel who have been formally trained in these modalities and are duly licensed under the provisions of an act pertaining to their specialty.

    e) Respiratory care services in case of an emergency, which includes an epidemic or public disaster.

    f) Persons from engaging in cardiopulmonary research.

    g) Formally trained licensees and staff of child day care facilities from administering to a child inhaled medication.

    h) The performance by a person employed by a home medical device retail facility or by a home health agency licensed by the Department of Public Health (CDPH) of specific, limited, and basic respiratory care or respiratory care related services that have been authorized by the board.

    i) The performance of certain respiratory care practices by an LVN licensed by the BVNPT who is employed by a home health agency licensed by the CDPH, subject to certain conditions.

    (BPC § 3765)

43) Requires that, before January 1, 2025, LVNs performing respiratory care practices complete patient-specific training satisfactory to their employer. (BPC § 3765(i)(1))

44) Requires that, on or after January 1, 2025, patient-specific training offered by employers are in accordance with guidelines that shall be promulgated by the RCB no later than that same date, in collaboration with the BVNPT. (BPC § 3765(i)(2))

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

46) Establishes the Veterinary Medical Board (VMB) within the DCA to regulate veterinarians and registered veterinary technicians (RVTs) under the Veterinary Medicine Practice Act. (BPC §§ 4800 *et seq.*)

47) Provides that a person practices veterinary medicine when they, among other things, administer a drug or medicine for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals. (BPC § 4826)

48) Prohibits a veterinarian from prescribing, dispensing, or administering a drug, medicine, or treatment unless a veterinarian-client-patient relationship exists, subject to certain exceptions. (BPC § 4826.6)

49) Requires that, each time a veterinarian initially prescribes, dispenses, or furnishes a dangerous drug to an animal patient in an outpatient setting, the veterinarian shall offer to provide, verbally, in writing, or by email to the client, a consultation that includes the following:

    a) The name and description of the dangerous drug,

    b) The route of administration, dosage form, dosage, duration of drug therapy, the duration of the effects of the drug, and the common severe adverse effects associated with the use of a short-acting or long-acting drug,

    c) Any special directions for proper use and storage,

    d) Actions to be taken in the event of a missed dose, and

    e) If available, precautions and relevant warnings provided by the drug's manufacturer, including common severe adverse effects of the drug.

    (BPC § 4829.5(a))

50) Requires a veterinarian to provide drug documentation to a client, if available. (BPC § 4829.5(b))

51) Authorizes a veterinarian to delegate the task of providing consultation and drug documentation to an RVT or veterinary assistant. (BPC § 4829.5(c))

52) Establishes the State Board of Barbering and Cosmetology (BBC) within the DCA to regulate barbers, cosmetologists, hairstylists, electrologists, estheticians, and manicurists under the Barbering and Cosmetology Act. (BPC §§ 7301 *et seq.*)

53) Defines the practice of hairstyling as all or any combination of the following:

    a) Styling of all textures of hair by standard methods that are current at the time of the hairstyling.

b) Arranging, blow drying, cleansing, curling, cutting, dressing, extending, shampooing, waving, or nonchemically straightening the hair of any person using both electrical and nonelectrical devices.

(BPC § 7316)

54) Establishes fee amounts that may be charged to applicants and licensees by the BBC and specifically provides that the fee for a hairstylist application and examination shall be either $50 or a lower fee in an amount as determined by the BBC, not to exceed the reasonable cost of developing, purchasing, grading, and administering the examination. (BPC § 7323)

55) Establishes the Structural Pest Control Board (SPCB) within the DCA to regulate structural pest control operators under the Structural Pest Control Act. (BPC §§ 8500 *et seq.*)

56) Requires that, as a condition of license renewal, a licensee of the SPCB must submit proof of continuing education, or equivalent activity, informing themselves of developments in the field of pest control, and authorizes licensees to take an examination issued by the SPCB in lieu of continuing education. (BPC § 8593)

57) Provides that the SPCB shall require applicants for license renewal to submit proof that they have completed approved courses of continuing education in pesticide application and use, and provides that in lieu of submitting that proof, the licensee may successfully pass an applicator's examination for renewal of a license given by the SPCB. (BPC § 8593.1)

THIS BILL:

1) Allows RDHAPs working in a dental health professional shortage area to continue to provide dental hygiene services if the dental health professional shortage area certification is removed and requires those RDHAPs to annually provide patients treated at an existing practice with a list of dentists in the previous dental health professional shortage area who may be able to see the patient for comprehensive services.

2) Adds references to osteopathic physicians and surgeons licensed by the OMBC to provisions of existing law generally prohibiting use of the terms "doctor," "physician," "Dr.," and "M.D." by persons who are not licensed physicians and surgeons.

3) Expressly prohibits a person from using the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D." or "D.O.," or any other terms or letters indicating or implying that the person is a physician and surgeon or practitioner in a health care setting that would lead a reasonable patient to determine that person is a licensed "M.D." or "D.O."

4) Clarifies that the above prohibitions do not apply to a person holding a current and active license under another healing arts board, to the extent the use of the title is consistent with the act governing the practice of that license.

5) Additionally allows a person who is not a physician and surgeon to use the word "doctor" or the prefix "Dr." if the use is not associated with any claim of entitlement to practice medicine or any other professional service for which the use of the title would be untrue or misleading.

6) Makes the following changes to the requirements for NP practicing independent of standardized procedures:

   a) Amends the definition of "transition to practice" to delete the requirement that clinical experience must meet the requirements established by the BRN, clarify that clinical experience may not be limited to experience in a single category of NP practice, and exclude experience obtained before a person is certified as an NP.

   b) Authorizes the transition to practice to be completed in another state.

   c) Specifies that an NP who has been practicing as a nurse practitioner in direct patient care for a minimum of three full-time equivalent years or 4,600 hours within the last 5 years, as of January 1, 2023, may be deemed to have satisfied the transition to practice requirement.

   d) Specifies the following for purposes of completion of the transition to practice:

      i) The BRN must receive proof of completion of a transition to practice on a form prescribed by the BRN as an attestation from either a licensed physician and surgeon or an NP authorized to practice independent of standardized procedures.

      ii) A licensed physician and surgeon or an NP who attests to the completion of a transition to practice is not required to specialize in the same category as the applicant.

      iii) A licensed physician and surgeon or an NP who attests to the completion of a transition to practice is not required to verify competence, clinical expertise, or any other standards related to the practice of the applicant and only attests to the completion of the transition to practice.

      iv) A licensed physician and surgeon or an NP who attests to the completion of a transition to practice is not be subject to civil, criminal, administrative, disciplinary, employment, credentialing, professional discipline, contractual liability, or medical staff action, sanction, or penalty or other liability for providing an attestation or refusing to provide an attestation.

   e) Deletes from the requirement that an NP practicing independent of standardized procedures inform all new patients in a language understandable to the patient that an NP is not a physician and surgeon that the NP do so verbally.

   f) Deletes requirement that an NP nurse practitioner use the standardized phrase "enfermera especializada" with Spanish language speakers.

   g) Specifies that an NP is not be required to tell a patient the patient has a right to see a physician and surgeon.

   h) Clarifies that the disclosure requirements only apply to NPs practicing independently of standardized procedures.

7) Specifies that the occupational analysis performed by the BRN related to NP competencies and independent practice did not need to include NP certification examinations discontinued before January 1, 2017.

8) Extends respective dates for LVNs to complete patient-specific training, and for the RCB to promulgate regulations in consultation with the BVNPT, to January 1, 2028.

9) Authorizes, operative January 1, 2028, an LVN to perform respiratory care services identified by the RCB so long as they:

   a) Complete patient-specific training satisfactory to their employer, and

   b) Hold a current and valid certification of competency for each respiratory task to be performed from the California Association of Medical Product Suppliers, the California Society for Respiratory Care, or another organization identified by the board.

10) Authorizes, operative January 1, 2028, LVNs to perform respiratory care services identified by the RCB in the following settings:

   a) At a congregate living health facility licensed by the CDPH that is designated as six beds or fewer.

   b) At an intermediate care facility licensed by the CDPH that is designated as six beds or fewer.

   c) At an adult day health care center licensed by the CDPH.

   d) As an employee of a home health agency licensed by the CDPH or an individual nurse provider working in a residential home.

   e) At a pediatric day health and respite care facility licensed by the CDPH.

   f) At a small family home licensed by the State Department of Social Services that is designated as six beds or fewer.

   g) As a private duty nurse as part of daily transportation and activities outside a patient's residence or family respite for home- and community-based patients.

11) Requires a pharmacist who dispenses or furnishes a dangerous drug pursuant to a veterinary prescription to include, as part of the consultation, the option for a representative of an animal patient to also receive drug documentation specifically designed for veterinary drugs.

12) Recasts the authority of the BBC to charge a hairstylist application and examination fee to require the fee amount to be the actual cost to the board for developing, purchasing, grading, and administering the examination and establishes the fee for a hairstylist's initial license fee as $50.

13) Removes the authority for SCPB licensees to take an examination issued by the board in lieu of continuing education.

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

COMMENTS:

Purpose. This bill is sponsored by the author, who is Chair of the Senate Committee on Business, Professions, and Economic Development. According to the author:

> "This bill is intended to be an omnibus bill which includes several changes to programs reviewed through the sunset review oversight process. Among other important clarifying provisions, SB 1451 addresses a number of practice areas impacting the ability for female-dominant healthcare professions to effectively provide safe and expanded access to care to California patients."

Background.

Registered Dental Hygienists in Alternative Practice. The DHBC maintains authority over all aspects of licensure, enforcement, and investigation of California dental hygienists. The DHBC regulates three categories of mid-level dental professionals. These categories include registered dental hygienists, registered dental hygienists in extended functions, and RDHAPs.

An RDHP is trained and authorized to provide unsupervised dental hygiene services in certain limited practice settings, including residences of the homebound, schools, residential facilities, and dental offices. RDHAPs are also authorized to provide services without supervision in certified dental health professional shortage areas. The original intent of this authority was to allow RDHAPs to perform unsupervised services on vulnerable and challenging populations, such as children, individuals with limited access to dental care, and patients with compromised mobility or other health concerns that impede their ability to get dental care in more traditional settings.

During the DHBC's sunset review in 2018, the board's sunset hearing background paper discussed the fact that while an RDHAP may set up practice in a dental health professional shortage area, the RDHAP must relocate their practice once that shortage is deemed to no longer exist. Health professional shortage areas are federal designations, certified in California by HCAI, and therefore decertification could in theory occur with little notice or public input. Assembly Bill 502 (Chau) of 2015 included language that would have allowed an RDHAP to continue practicing in an area that has lost its dental health professional shortage area designation; however, this language was subsequently removed from the bill.

This issue was again discussed during the DHBC's most recent sunset review in 2023. Issue #5 in the board's sunset hearing background paper discussed the question of whether current law should be amended to allow an RDHAP with a stand-alone dental hygiene practice site in a dental health professional shortage area to remain in practice even if the area's shortage area certification is removed. The background paper noted that "licensees are wary of opening a dental hygiene practice with the risk that they could lose the business if the designation is lifted by the federal government due to the dental hygiene services they are providing to the population." The DHBC opined that if this concern were addressed, more RDHAPs would potentially be willing to open new practices in these communities where their dental services are vitally needed the most.

This bill would address the concerns that were raised in the DHBC's prior sunset reviews by amending the law to allow an RDHAP that previously provided services without supervision in a dental health professional shortage area to continue to provide dental hygiene services in the event that the dental health professional shortage area certification is removed for that area. The bill would require RDHAPs to annually provide patients treated at an existing practice with a list of dentists in the previous dental health professional shortage area who may be able to see the patient for comprehensive services. While it is uncertain whether there is any imminent risk of the federal government removing a substantial number of dental health professional shortage area designations in the future, this authority will arguably help encourage RDHAPs to invest in opening practices in these communities, which would correspondingly result in underserved patients receiving access to dental hygiene services.

Restriction of Medical Terms. The Medical Practice Act currently prohibits any person from practicing or advertising as practicing medicine without a license. Statute specifically makes it a misdemeanor for any unlicensed person to use the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any other terms or letters indicating or implying that the person is a licensed physician and surgeon on any sign, business card, or letterhead, or, in an advertisement. To use these words, prefixes, or initials, a person's license must be valid, unrevoked, and unsuspended. The statute features three limited exceptions for individuals who are trained as physicians but not currently licensed in California.

General provisions governing health professional licensing boards make it unlawful for any healing arts licensee to publically communicate any false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of rendering professional services in connection with their licensed practice. Statute specifically prohibits a licensee from using "any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive." Practitioners may advertise that they are certified or that they limit their practice to specific fields; however, the term "board certified" reserve for physicians certified by an American Board of Medical Specialties member board.

Additionally, Section 17500 of the Business and Professions Code broadly prohibits false advertising of a product or service. Specifically, this law makes it unlawful for any person to make any statement or advertisement with intent to perform services, professional or otherwise, that is untrue or misleading. While this code section covers a wide range of false advertisements by sellers of goods or services, its provisions would be applicable to health care licensees.

While the Medical Practice Act expressly reserves use of the words "doctor" or "physician" for actively licensed physicians, this provision does not comprehensively reflect the current state of the law. For example, while podiatrists are independently licensed by the Podiatric Medical Board of California, their formal title is "doctors of podiatric medicine." Similarly, the California Board of Naturopathic Medicine licenses and regulates a profession statutorily referred to as "naturopathic doctors." Optometrists, dentists, chiropractors, psychologists, and other practitioners possessing professional doctorates are also expressly authorized by law to use the term "doctor." "Dr." is also commonly used as a social honorific for anyone who has received a doctoral degree, including research doctorates not associated with licensure.

Current law also does not expressly exempt individuals who do not imply any authority to practice a healing art but who use the honorific "Dr." to recognize a nonprofessional doctorate or as part of an established nickname. For example, Dr. Dre is an American rapper and entrepreneur whose debut record as a solo performer, *The Chronic*, is widely recognized as a seminal hip hop album of the 1990s and credited with popularizing the G-funk rap subgenre. Born Andre Romell Young, the artist's moniker was inspired Julius Erving, a professional basketball player for the Philadelphia 76ers who is considered to be one of the greatest dunkers of all time and who is known by his nickname "Dr. J." Neither Dr. Dre nor Dr. J is a graduate of any medical school and neither holds a current license as a physician and surgeon from a state medical board. However, the MBC has not prosecuted Dr. Dre or Dr. J for violating the Medical Practice Act, likely because they are clearly not implying that they are physicians, which is the obvious intent of the law.

Under the status quo, it is apparent that someone who is not a physician and surgeon may nevertheless safely use the term "doctor" and its associated prefix without fear of incurring a misdemeanor conviction if they are authorized by another law to use that title (e.g. a person licensed under the Naturopathic Doctors Act); in possession of a doctoral degree (e.g. Dr. Jill Biden, Ed.D.); or clearly not implying any qualification to practice medicine (e.g. Dr. Demento). However, current law does not expressly reference any of these exemptions. Current law also does not reflect the fact that physicians and surgeons are not exclusively licensed as M.D.s by the MBC; osteopathic physicians and surgeons possess the same authority and scope as D.O.s licensed by the OMBC.

This bill would make several updates and clarifications to existing law restricting use of "doctor" and similar terms. Because osteopathic physicians and surgeons have the same scope of practice as physicians and surgeons licensed by the MBC and are regulated under the same chapter of code, this bill would provide them with the same title protection for the initials "D.O." that licensees of the MBC receive for "M.D." Additionally, the bill clarifies that exemptions in current law for graduates of medical schools apply equally to graduates of osteopathic medical schools. The bill would then expressly provide that no person may use words, initials, or other terms or letters indicating or implying that the person is a physician and surgeon, physician, surgeon, or practitioner in a health care setting that would lead a reasonable patient to determine that person is a licensed "M.D." or "D.O."

Additionally, this bill would further clarify existing law by adding two new exceptions to the restriction of these terms that are reflective of the status quo but not expressly referenced in the Medical Practice Act. First, the bill would confirm that licensees of other healing arts boards, such as optometrists, naturopathic doctors, and dentists, may continue to use words such as "doctor" to the extent the use of the title is consistent with the act governing the practice of that license. Second, the bill would exempt any person whose use of the word "doctor" or the prefix "Dr." is not associated with any claim of entitlement to practice medicine or any other professional service for which the use of the title would be untrue or misleading pursuant to Section 17500. This clarification would capture both those who have earned the right to the title "doctor" by obtaining a doctoral degree and those who merely use the term as playful branding, as long as the use is outside any medical context that could be confusing to consumers.

Nurse Practitioners. An NP is a registered nurse (RN) who has additionally earned a postgraduate nursing degree, such as a Master's or Doctorate, and obtained a certificate from a certifying body. For state recognition to practice as an NP, the NP must also meet the educational standards established by the BRN. According to BRN regulations, an NP is an advanced practice registered nurse who meets BRN education and certification requirements and possesses additional advanced practice educational preparation and skills in physical diagnosis, psycho-social assessment, and management of health-illness needs in primary care or acute care.

As RNs, NPs generally have the same base scope of practice as non-NP RNs, although their additional education and training allows them to perform more advanced functions under standardized procedures. Currently, all RNs practicing outside of the basic scope of nursing operate under a supervision mechanism known as a "standardized procedure." The standardized procedure authorizes functions that would otherwise be considered the practice of medicine and must be based on the guidelines jointly promulgated by the Medical Board of California and the BRN.

Standardized procedures must meet specified requirements, including that they:

1) Are developed with the organized healthcare system or physician.
2) Outline the scope of the functions allowed.
3) Specify the circumstances under which they may be performed.
4) Specify any training prerequisites.
5) Establish a method for initial and ongoing evaluation of the competence of the RN.
6) Specify the level of physician supervision required (e.g. indirect, on-site, present during the procedure).
7) Establish physician consultation protocols.
8) Specify any limitations on settings where the functions may be performed.
9) Specify record-keeping requirements and methods for periodic review.

As the result of the more advanced NP training, standardized procedures may authorize a greater number or difficulty of functions and settings while reducing the amount of supervision needed. The Nursing Practice Act also specifically authorizes NPs under standardized procedures to order durable medical equipment; certify disability; approve, modify, and add to a home health services treatment plan; furnish and order prescription drugs; and perform abortions by aspirations techniques with additional training.

DCA's Annual Report for Fiscal Year 2022-23 reported 36,092 actively licensed NPs and 32,780 NPs with a furnishing certificate authorizing them to furnish drugs.

Independent NPs and the "transition to practice" requirement. NPs who meet additional requirements, including the completion of a 3-year or 4600-hour "transition to practice," may practice independently without standardized procedures. There are two categories of independent NPs, those who practice in licensed healthcare settings where physicians practice and those who practice in any setting. Due to the variety of NP educational pathways, in order to practice independently in any setting, an NP would be required to meet the above training requirements above as well as meet additional educational experience prerequisites.

Once an NP meets the transition to practice, the NP may perform the following functions independent of standardized procedures:

1) Conduct an advanced assessment.
2) Order, perform, and interpret diagnostic procedures, including radiologic procedures and specified laboratory procedures.
3) Establish primary and differential diagnoses.
4) Prescribe, order, administer, dispense, procure, and furnish therapeutic measures, including, but not limited to, the following:
    a) Diagnose, prescribe, and institute therapy or referral of patients to healthcare agencies, healthcare providers, and community resources.
    b) Prescribe, administer, dispense, and furnish pharmacological agents, including over-the-counter, legend, and controlled substances.
    c) Plan and initiate a therapeutic regimen that includes ordering and prescribing nonpharmacological interventions, including, but not limited to, durable medical equipment, medical devices, nutrition, blood and blood products, and diagnostic and supportive services, including, but not limited to, home health care, hospice, and physical and occupational therapy.
5) After performing a physical examination, certify disability pursuant to the Unemployment Insurance Code.
6) Delegate tasks to a medical assistant.

While there are still requirements in the law that specify when an independent NP would need to consult with a physician or refer a patient, the NP is not required to establish a relationship with a physician for those purposes before practicing without standardized procedures.

Transition to Practice in Other States. There are 24 states that authorize NPs to practice without standardized procedures. Of those, 10 require a transition to practice, ranging from six months of full-time practice or 1,000 hours to 3 years or 2,000 hours. The remaining 14 do not require a transition to practice.

BRN Transition to Practice Regulations. Existing law requires the BRN to establish requirements related to the transition to practice. Pursuant to that requirement, BRN regulations require that the transition to practice meet the following:

1) Be completed in the five years preceding application.
2) Be completed after initial certification as an NP by the BRN.
3) Be completed in direct patient care.
4) Be completed in a specified NP practice area (family/individual across the lifespan; adult-gerontology, primary care or acute care; neonatal; pediatrics, primary care, or acute care; women's health/gender-related; psychiatric-mental health).

The BRN’s regulations also require that a physician or another NP authorized to practice independently who is practicing in the same practice area as the applicant NP to attest to the completion of the transition to practice. This bill codifies portions of those requirements and preempts others.

NP Disclosure Requirements. NPs under the independent practice provisions are statutorily required to make several disclosures to patients, including verbally informing all new patients in a language understandable to the patient that the NP is not a physician and surgeon and referring to themselves as "enfermera especializada" with Spanish language speakers. BRN regulations also require NPs to tell all patients they have the right to see a physician. This bill deletes "verbally" from the requirement that new patients are informed that an NP is not a physician and deletes the "enfermera especializada" requirement. This bill also prohibits requiring NPs to tell all patients they have the right to see a physician.

Respiratory Care and LVNs. In the 2022 sunset review of the RCB, a long-standing issue was raised related to the appropriate scope of practice between LVNs and respiratory care professionals in administering respiratory services for managing patients. While the RCB has historically contended that LVNs should not be administering any ventilator services, the BVNPT issued guidance to licensees permitting LVNs to adjust ventilator settings. The RCB has maintained this policy was not a formal regulation, and made numerous requests to rescind the policy, but the BVNPT has maintained the position that LVNs should be able to adjust ventilators.

In 2019, the two boards attempted to resolve this issue and worked collaboratively. From that work, the two boards issued a joint statement clarifying respiratory care professional and LVN roles relating to patient care on mechanical ventilators. After reactions and comments from a variety of facilities and organizations, there was momentum to further clarify its respective regulations regarding patient care. The boards hosted a stakeholder meeting to further discuss the joint statement and concerns grew about expanding places LVNs can conduct ventilator services to home based settings as well. According to the RCB, BVNPT backed out of the agreement and began exploring continuing to train LVNs to perform ventilator services in more settings.

As a result of this continuing issue, the 2022 sunset bill for the RCB (SB 1436, Roth, Ch. 624, Statutes of 2022) included provisions that respiratory care and services may be provided if an LVN completes, before January 1, 2025, patient-specific training satisfactory to their employer, and if that LVN is employed by a home health agency licensed by the CDPH. Additionally, the bill required that on or after January 1, 2025, the licensed vocational nurse has completed patient-specific training by the employer in accordance with guidelines that shall be promulgated by the board no later than January 1, 2025, in collaboration with the BVNPT. Stemming from this collaboration, this bill extends the respective deadlines for the RCB and BVNPT to promulgate regulations and for LVNs to complete training to January 1, 2028, and expands the circumstances under which an LVN can perform certain respiratory care practices to include, among other things: those working at licensed congregate living facilities designated as six beds or fewer, licensed adult day health care center, licensed pediatric day health and respite care facilities, and more.

Veterinary Prescriptions. Licensed veterinarians are permitted to order, prescribe, and administer certain controlled substances so long as they perform an in-person examination of the patient and confirm such a substance is medically necessary. In addition, RVTs and veterinary assistants that possess a valid controlled substances permit issued by the VMB, may obtain and administer a controlled substance to a patient. Importantly, law expressly prohibits veterinarians from ordering, prescribing or furnishing a controlled substance to themselves or any human.

During the VMB's 2016 sunset review, it was made clear that, though a common practice amongst the veterinary community, veterinarians were not explicitly required to provide a consultation to clients regarding information about drugs and medicines they prescribe to patients. As a result, omnibus legislation authored by then-Senator Jerry Hill (SB 1480, Ch. 571, Stats. of 2018) added a requirement to law that veterinarians must offer a consultation to any client whom they prescribe, administer or otherwise furnish a drug to, and provide any available drug documentation upon request. In line with this greater transparency for pet owners, this bill requires licensed pharmacists who dispense a drug pursuant to a veterinary prescription to, as part of consultation, offer documentation with information specific to the veterinary drug to the client.

Hairstylist License. The BBC is responsible for licensing and regulating barbers, cosmetologists, hairstylists, estheticians, electrologists, manicurists, apprentices, and establishments. The BBC is one of the largest boards in the country, with over 615,000 licensees. As of the board's most recent sunset review, the BBC annually issues approximately 261,000 licenses and administers approximately 28,000 written examinations (initial and retake examinees). Each profession has its own scope of practice, entry-level requirements, and professional settings, with some overlap in areas. In addition to licensing individuals, the BBC approves schools.

During the BBC's most recent sunset review in 2021, a number of reforms were passed through the BBC's sunset extension vehicle (SB 803, Roth). These included adding further specificity to the composition of the BBC, recasting the scope of practice for skincare, and authorizing cosmetology students to obtain more clock hours through paid externships. The BBC's sunset bill also created a new hairstylist license, which allows licensees to provide certain basic hair services after meeting lower education and training requirements than are needed for barbering or cosmetology license.

The Barbering and Cosmetology Act generally prohibits the BBC from charging fees beyond what is necessary to cover the expenses of the board in performing its duties. SB 803 authorized the BBC to charge an application and examination fee to individuals seeking licensure as hairstylists. Statute currently provides the BBC with two options: they can either charge $50, or they can charge a different amount that does not exceed either $50 or the reasonable cost of developing, purchasing, grading, and administering the examination. This bill would remove the BBC's authority to charge $50 if that is not the amount that it determines to be its actual costs of developing, purchasing, grading, and administering the examination. This bill would then additionally cap the initial fee for a hairstylist's license at $50.

Structural Pest Control. This bill makes minor, yet substantive, changes to the Structural Pest Control Act, which is administered by the Structural Pest Control Board (SPCB). All licensees under the SPCB must, as a condition of their license renewal, submit proof of completion of continuing education (CE) that as deemed satisfactory by the board. Under current law, SPCB allows licensees to pass a board-administered examination in lieu of completing CE in order to obtain license renewal. However, the U.S. Environmental Protection Agency amended federal law in 2017 to tighten requirements related to restricted use pesticides and those certified to utilize them. Specifically, the EPA clarified that if individuals are certified - or in California's case, licensed – based on written examination, the respective state must ensure the examination is adequately developed to demonstrate competencies required by federal law.

The SPCB surmises that aligning competency examinations with this new standard will be onerous, as they do not have staff within the agency itself qualified to develop the exam to a defensible standard, and deem that engagement with the DCA's Office of Professional Examination Services (OPES) would be too costly. As a result, this bill deletes the competency examination as an alternative for completing CE, thus eliminating the SPCB's need to continue developing or administering such an examination.

Current Related Legislation.

SB 1526 (Business, Professions, and Economic Development Committee) makes numerous technical and clarifying provisions related to programs within the DCA.

Prior Related Legislation.

AB 765 (Wood) of 2023 would have prohibited any person who is not a licensed physician and surgeon from using various medical specialty titles or otherwise implying that they are a physician and surgeon. *This bill died on suspense in the Assembly Committee on Appropriations.*

SB 817 (Roth) of 2023 would have recast provisions of law authorizing the BBC to charge a hairstylist license application and examination fee to require that the fee be the actual cost, not to exceed $50. *This bill was not set for a hearing in the Assembly Committee on Appropriations.*

SB 1436 (Roth, Chapter 624, Statutes of 2022) extended until January 1, 2027, the provisions establishing the RCB and makes additional technical changes and reforms in response to issues raised during the RCB's sunset review oversight process.

AB 2684 (Berman, Chapter 2684, Statutes of 2022) was the BRN's 2022 sunset review bill and, among other things, added technical, clarifying and conforming changes to the Nursing Practice Act to assist with implementation of AB 890.

AB 890 (Wood, Chapter 265, Statutes of 2020) authorized an NP to provide specified services in specified settings, without standardized procedures, if the NP meets additional education, examination, and training requirements; required the BRN to adopt regulations defining a transition to practice; required the BRN to establish a Nurse Practitioner Advisory Committee to advise and make recommendations to the BRN on NP all issues; and required the BRN and the DCA to identify or develop an examination that tests for independent practice competency.

ARGUMENTS IN SUPPORT:

Close the Provider Gap and a coalition of organizations representing nurse practitioners, hospitals, labor groups, and nonprofits write in support of this bill's provisions related to NPs: "To address the urgent health needs of our state in a sustainable and equitable manner, we must ensure NPs are able to close the provider gap. By providing clarifying guidance, SB 1451 will help streamline the application process and enable California's most experienced NPs to expand access to quality, affordable care. We must close the provider gap – the Californians we serve don't have the time to wait any longer. Through SB 1451, we can ensure our state's communities and families – especially those in health care deserts – can access the high-quality, timely care they need and deserve."

The **California Dental Hygienists' Association** (CDHA) supports this bill's provisions related to RDHAPs, writing: "It is a goal of the DHPSA designation to attract enough oral health providers to the shortage area. Prohibiting a provider from providing services in the area is counter to the legislature's goals of increasing access to oral healthcare for the underserved areas of the state. There is no harm to patients to have more than enough providers in an area. In fact, patients and consumers only benefit by having more than enough oral health providers available."

ARGUMENTS IN OPPOSITION:

The **California Medical Association** (CMA) has taken an "oppose unless amended" position on the provisions in this bill related to NPs, writing: "This bill eliminates the requirement that a nurse practitioner must complete a variation of a three-year training requirement in one of six different specialty categories. Amendments have been suggested to have this section removed or restored with some sort of requirement or proof to demonstrate a nurse practitioner has completed at least three years of clinical experience in a specific category before being approved for independent practice. CMA also requests that the physician attestation section of this bill linked to a nurse practitioner transitioning to independent practice is amended to guarantee patient safety and physician liability protection. Additionally, this bill strikes a section related to nurse practitioner's notifying patients that they have the right to see a physician. Amendments are recommended to ensure patients know they have the option to see a physician when they are being treated by an independently practicing nurse practitioner."

The **American Association of Nurse Practitioners** (AANP) opposes the provisions in this bill relating to the restriction of medical terms such as "doctor," writing: "A strength of today's healthcare workforce is the growing number of healthcare providers holding doctoral and advanced graduate preparation. More than a dozen health professional disciplines –including nurse practitioners, osteopathic physicians, pharmacists, physical therapists, and psychologists— are educated at the doctoral level. The American Association of Nurse Practitioners supports the use of the title doctor in conjunction with licensure title for doctorly prepared nurses and other health care providers in the clinical setting and advertising. California clinicians are already prohibited from falsely identifying themselves and from providing fraudulent or purposeful misinformation to patients."

REGISTERED SUPPORT:

Association of California Healthcare Districts
Bay Area Cancer Connections
Board of Barbering and Cosmetology
California Access Coalition
California Alliance of Child and Family Services
California Association for Nurse Practitioners
California Association of Alcohol and Drug Program Executives
California Association of Medical Product Suppliers
California Dental Hygienists' Association
California Health Collaborative
California Hospital Association
California Nurses Association

Center for Inherited Blood Disorders
Chronic Disease Coalition
Close the Provider Gap
Dental Hygiene Board of California
ElderHelp
LeadingAge California
Little Lobbyists
Liver Coalition of San Diego
Madera Community Hospital
Mental Health America of California
Michelle's Place Cancer Resource Center
Patient Advocates United in San Diego County
Pediatric Day Health Care Coalition
Respiratory Care Board of California
SEIU California State Council
Senior Care Clinic Medical House Calls
26 individuals

REGISTERED OPPOSITION:

American Association of Nurse Practitioners
American Nurses Association of California
California Dental Association
California Medical Association
California Nurse-Midwives Association
California Society of Dermatology & Dermatologic Surgery
California State Oriental Medical Association
Osteopathic Medical Board of California

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Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1452 (Ashby) – As Amended April 16, 2024

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

SENATE VOTE: 37-0

SUBJECT: Architecture and landscape architecture

SUMMARY: Extends the sunset date for the California Architects Board (CAB or board) and the Landscape Architects Technical Committee (LATC) to January 1, 2029, and requires applicants and licensees to provide the board and LATC with an email address, as specified.

EXISTING LAW:

1) Establishes the Architects Practice Act (Act) to regulate the practice of architecture in California. (Business and Professions Code (BPC) § 5501 et seq.)

2) Establishes the CAB within the Department of Consumer Affairs (DCA), subject to repeal on January 1, 2025. (BPC § 5510)

3) Authorizes, until January 1, 2029, the board to appoint a person to be designated as an executive officer and exercise the powers and perform the duties delegated by the board and vested in the executive officer. (BPC § 5517)

4) Requires licensed architects to file with the board their current mailing address and the proper and current name and address of the entity through which they provide architectural services. Provides that "entity" means any individual, firm, corporation, or limited liability partnership. (BPC § 5558)

5) Specifies that all licenses issued or renewed under the Act shall expire at 12 midnight on the last day of the birth month of the licenseholder in each odd-numbered year following the issuance or renewal of the license. (BPC § 5600(a))

6) Requires the board to give written notice to a licensee 30 days in advance of the regular renewal date and to give written notice by registered mail 90 days in advance of the expiration of the fifth year that a renewal fee has not been paid. (BPC § 5600.1)

7) Prescribes the following fees for architect applicants and licenseholders:

    a) The application fee for reviewing a candidate's eligibility to take any section of the examination may not exceed $100.

    b) The fee for any section of the examination administered by the board may not exceed $100.

c) The fee for an application for reciprocity may not exceed $100.

d) The fee for a duplicate license may not exceed $25.

e) The renewal fee may not exceed $400.

f) The fee for a retired license may not exceed the fee for an original license at an amount equal to the renewal fee in effect at the time the license is issued, except that, if the license is issued less than one year before the date on which it will expire, then the fee shall be fixed at an amount equal to 50% of the renewal fee in effect at the time the license is issued. (BPC § 5604)

8) Establishes the LATC, until January 1, 2025, within the jurisdiction of the CAB, consisting of five members who are licensed to practice landscape architects in California. (BPC § 5621)

9) Authorizes the board, until January 1, 2025, to delegate its authority to the LATC except that it may not delegate its authority to discipline a landscape architect or to take action against a person who has committed a violation. (BPC § 5620)

10) Authorizes the LATC, until January 1, 2025, to do all of the following:

a) Assist the board in the examination of candidates for a landscape architect's license and, after investigation, evaluate and make recommendations regarding potential violations of law.

b) Investigate, assist, and make recommendations to the board regarding the regulation of landscape architects in this state.

c) Perform duties and functions that have been delegated to it by the board.

d) Send a representative to all meetings of the full board to report on the committee's activities. (BPC § 5622)

11) Prohibits a license that is not renewed within five years after its expiration from being renewed, restored, reissued, or reinstated, but allows the holder of the expired license to apply for and obtain a new license if 1) no fact, circumstance, or condition exists which, if the license were issued, would justify its revocation or suspension; 2) the holder of the expired license pays the fees required of new applicants; and 3) the holder of the expired license takes and passes the current California Supplemental Examination. (BPC § 5680.2)

THIS BILL:

1) Extends the sunset date for the CAB and its authority to appoint an executive officer by four years to January 1, 2029.

2) Requires each applicant for examination or licensure as an architect or landscape architect who has a valid email address to report to the board that email address at the time of application.

3) Requires that a licensee who has a valid email address must report that email address to the board at the time of renewal.

4) Requires each applicant or licensee to notify the board within 30 days of any change to their email address on file with the board.

5) Specifies that, to protect the privacy of applicants and licensees, the email addresses provided to the board shall not be considered a public record and shall not be disclosed, unless required by a court order.

6) Specifies that information sent from an email account of the board to a valid email address provided by an applicant or licensee is presumed to have been delivered to the email address provided.

7) Defines "valid email address" to mean an email address at which the applicant or licensee is currently receiving email at the time the application or license renewal is submitted to the board.

8) Extends the sunset date for the LATC, and the board's authorization to delete its authority to the LATC, by four years to January 1, 2029.

9) Requires the holder of a license is not renewed within five years after its expiration to pay all of the fees and meet all of the requirements for obtaining an original license if the expired licenseholder applies for a new license.

10) Makes nonsubstantive and conforming changes.

FISCAL EFFECT: According to the Senate Appropriations Committee, the 2024-25 Governor's Budget provides approximately $6.34 million (CAB Fund and California Board of Architectural Examiners - Landscape Architects Fund) and 30.4 positions to support the continued operation of the CAB and LATC licensing and enforcement activities. The CAB and LATC do not anticipate an additional fiscal impact, as the bill does not impact current licensing or enforcement workload.

COMMENTS:

Purpose. This bill is the sunset review vehicle for the CAB and LATC, authored by the Senate Business, Professions and Economic Development Committee. This bill extends the sunset date for the board and LATC and enacts technical changes, statutory improvements, and policy reforms in response to issues raised during the board's sunset review oversight process.

Background.

Sunset review. Each year, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development hold joint sunset review oversight hearings to review the licensing boards under the DCA. The DCA boards are responsible for protecting consumers and the public and regulating the professionals they license. The sunset review process provides an opportunity for the Legislature, DCA, boards, and

stakeholders to discuss the performance of the boards and make recommendations for improvements.

Each board subject to review has an enacting statute that has a repeal date, which means each board requires an extension before the repeal date. This bill is one of the "sunset" bills that are intended to extend the repeal date of the boards undergoing sunset review, as well as include the recommendations from the sunset review oversight hearings. There are five sunset review bills authored by the Assembly Committee on Business and Professions and five sunset review bills authored by the Chair of the Senate Business, Professions and Economic Development Committee.

California Architects Board. The CAB was established in 1901 to protect the health, safety, and welfare of the public by regulating the practice of architecture in California. The board is responsible for the implementation and enforcement of the Act. At the time of this writing, the board reports that there are over 21,000 architects and approximately 10,000 candidates who are in the process of meeting licensure requirements.

The board's mission, as stated in its 2022-2024 Strategic Plan, is:

The California Architects Board protects consumers by establishing standards for professional qualifications, ensuring competence through examinations, setting practice standards, and enforcing the Architects Practice Act.

The following goals frame the Board's efforts:

- Ensure the professional qualifications of those practicing architecture by setting requirements for education, experience, and examinations;
- Establish regulatory standards of practice for California architects and protect consumers by preventing violations and effectively enforcing laws, codes, and standards when violations occur;
- Protect consumers by preventing violations and effectively enforcing laws, codes, and standards when violations occur;
- Increase public and professional awareness of the Board's mission, activities, and services;
- Improve effectiveness of relationships with related organizations in order to further the Board's mission and goals; and
- Enhance organizational effectiveness and improve the quality of customer service in all programs.[1]

California Landscape Architects Technical Committee. Within the board's jurisdiction is the LATC, to which the CAB may delegate certain duties and functions. The LATC is tasked with protecting the health, safety, and welfare of the public by establishing standards for licensure and enforcing laws and regulations governing the practice of landscape architecture in California. In its 2023 Sunset Report, the LATC reported that there are approximately 3,700 active landscape

[1] California Architects Board. (2021, December 10). *2022-2024 Strategic Plan.* https://www.cab.ca.gov/docs/publications/strategic_plan.pdf

architect licensees in California. The LATC consists of five professional members appointed by the Governor, Senate, and Assembly. The CAB and LATC share an executive officer and assistant executive officer, although the LATC has five staff of its own.

The LATC's mission, as stated in its 2022-2024 Strategic Plan, is:

The Landscape Architects Technical Committee (LATC) regulates the practice of landscape architecture through the enforcement of the Landscape Architects Practice Act (Act) to protect consumers, and the public health, safety, and welfare while safeguarding the environment.

The following goals frame the LATC's efforts:

- Protect consumers through effective regulation and enforcement of laws, codes, and standards affecting the practice of landscape architecture.
- Ensure the professional qualifications of those practicing landscape architecture by setting and maintaining requirements for education, experience, and examinations.
- Increase public and professional awareness of LATC's mission, vision, values, and services.
- Provide accessible and responsive quality services to consumers and licensees.[2]

Current Related Legislation.

AB 3251 (Committee on Business and Professions) is the sunset bill for the Board of Accountancy. *AB 3251 is pending in the Senate Business, Professions, and Economic Development Committee.*

AB 3252 (Committee on Business and Professions) is the sunset bill for the Court Reporters Board. *AB 3252 is pending in the Senate Business, Professions, and Economic Development Committee.*

AB 3253 (Committee on Business and Professions) is the sunset bill for the Board for Professional Engineers, Land Surveyors, and Geologists. *AB 3253 is pending in the Senate Business, Professions, and Economic Development Committee.*

AB 3254 (Committee on Business and Professions) is the sunset bill for the Cemetery and Funeral Bureau. *AB 3254 is pending in the Senate Business, Professions, and Economic Development Committee.*

AB 3255 (Committee on Business and Professions) is the sunset bill for the Board of Vocational Nursing and Psychiatric Technicians of the State of California. *AB 3255 is pending in the Senate Business, Professions, and Economic Development Committee.*

SB 1452 (Ashby) is the sunset bill for the California Architects Board and the Landscape Architects Technical Committee. *SB 1452 is pending in this committee.*

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[2] California Landscape Architects Committee. (2022, September 16). *Strategic Plan 2022-2024.* https://www.latc.ca.gov/docs/publications/strategic_plan_2022-2024.pdf

SB 1453 (Ashby) is the sunset bill for the Dental Board of California. *SB 1453 is pending in this committee.*

SB 1454 (Ashby) is the sunset bill for the Bureau of Security and Investigative Services. *SB 1453 is pending in this committee.*

ARGUMENTS IN SUPPORT:

In support of this bill, the *CAB* writes, "This bill extends the sunset date of the Board and makes additional changes to the Architects Practice Act that will provide increased operational efficiencies."

The *California Council of the American Society of Landscape Architects* (CCASLA) also writes in support:

> As the first state in the nation to regulate our profession, California has a long history of putting consumers first and avoiding these potential harms. CCASLA believes that the existence of an appointed body of professionals with the technical expertise necessary to oversee regulation of the profession is essential to protecting the public. Since the Board of Landscape Architecture was eliminated, this role has been filled by the LATC.
>
> LATC's oversight and the concentration of technical expertise of its members is significant. California is a unique state when it comes to the practice of landscape architecture. Our state occupies some of the most geographical unique and bio-diverse regions in the world. With these diverse landscapes across the state, it is essential to the public that landscape architects are adequately prepared to practice. For this reason, California administers an extremely rigorous supplemental examination unlike most states with multidisciplinary boards with few landscape architect members.

SUNSET ISSUES FOR CONSIDERATION:

In preparation for the sunset hearings, committee staff publishes background papers that identify outstanding issues relating to the entity being reviewed. The background papers are available on the Committee's website: https://abp.assembly.ca.gov/jointsunsethearings. While all of the issues identified in both the CAB and LATC background papers remain available for discussion, the following are currently being addressed in this bill or otherwise actively discussed:

1) *CAB Issue #1: Board Composition.* The majority of DCA boards are comprised of an odd number of members. In contrast, CAB has 10 board members, represented equally by professional architects and public members. Although the Board reports a tie has never been a problem, sunset review may present an opportunity to mirror the composition of similar DCA boards, while providing representation to the LATC, which the Board has overseen since 1997. The LATC is organized as a committee within the organization of CAB and a representative of each body provides updates at one another's meetings of key issues and work collaboratively to ensure they understand priorities of the other. CAB appoints a liaison who attends LATC meetings on behalf of the Board, and an LATC member attends Board meetings to ensure the Committee's concerns are raised. The

LATC member does not have voting power and ultimately, CAB maintains the final authority to discipline landscape architects and issue examinations.

Staff Recommendation: The Board should advise the Committees as to the potential benefits of a multidisciplinary composition and the impacts of additional membership to its work at the board-level.

Board Response: The Board does believe a more efficient structure is possible and would benefit consumers and licensees. Adding a dedicated appointment to a licensed Landscape Architect would give the Landscape Architecture profession a much-needed voice on the Board that does not currently exist, while the advisory voice could be maintained through the Board's existing committee structure. This Board composition would keep a strong voice and dialogue for landscape architects intact, while increasing vote and voice and representation of the Landscape Architects on the Board itself. Distinction between the entities could be strengthened, while the large overlap of the administrative practices would more efficiently be managed.

A multidisciplinary composition will allow Board to perform its duties more efficiently. Currently, split funding in the office requires LATC and the Board to split purchases for supplies and equipment even though they are in a shared space. Workload is duplicated when generating reports and information to provide at Committee and Board meetings. Combining the programs will eliminate the duplicated work, provide a single purchasing point for staff needs which will improve office efficiencies and potentially save money for the programs.

Sunset Recommendation: The committees may wish to revisit the issue of board composition following a future decision as to whether or not to consolidate the board and LATC.

2) *CAB Issue #3: Fund Condition.* The fund condition table provided in the CAB's 2023 Sunset Review Report demonstrate a significant decline in board-reserves between FYs 2019/20 through 2024/25. In Fiscal Year (FY) 2019/20, the CAB reports a 16.5 month reserve level or close to $5.5 million. In FY 2024/25, board reserves are projected to significantly decline to 2.6 months, or close to $1.2 million dollars. CAB cites increased attorney general fees and business modernization costs as necessitating additional revenue. Specifically, a fee increase for architect initial licenses and renewals could assist CAB in maintaining a healthy fund condition. It would be helpful for the Committees to understand what cost pressures within the Board's control lead to challenges and what factors the Board cannot control that lead to expenditure increases. It would be helpful for the Committees to understand efficiencies that may benefit CAB and whether CAB absorbs unintended costs related to its management of the separate LATC, given that CAB is ultimately the regulator of landscape architects. While a separate fund for LATC expenditures exists, other programs with multiple regulated entities have similarly evaluated whether the Board ultimately subsidizes efforts of a body like LATC.

Staff Recommendation: The CAB should advise the Committees on the current reserve level and what fiscal challenges the CAB sees in the future. What administrative costs

have increased the most over the last few FYs? Is the CAB anticipating any future cost increases for operations? Has CAB analyzed costs savings that could be achieved were it to function as a multidisciplinary program with various representatives from different professions on the Board, rather than a standing board with a separate entity within its organization?

Board Response: The Department of Consumer Affairs' Budget Office recently completed a fee study for the Board, which the Board reviewed at its February meeting. The Board is projected to spend down its reserve and potentially need a fee increase towards the end of the decade. Staff has been analyzing the costs to run the Board and LATC as they exist now, independently, and whether some functions can be combined to achieve some cost savings. The Board believes a savings will be realized by becoming multidisciplinary as it will be able to better associate staff to required tasks and reduce redundancies created by having two programs report the same and similar information to the same entity.

Costs increases over the last few years include:

1. Cost of printing increased around $27,000
2. Slight increase in communication costs (CalNET, telephone services, etc.)
3. Postage increased around $6,000
4. Facilities cost increased around $15,000
5. IT charges increased around $113,000 from FY 19/20 to FY 22/23.

The Board does have proposed statutory language to provide the authority to increase fees by regulation when there is a need. The last statutory fee increase was in 2009.

Sunset Recommendation: Committee amendments will increase various fees to their statutory maximum and set new statutory fee caps:

Fee Type	New Fee Amount	New Fee Cap
Exam Eligibility Review Application	$100	$150
Exam Fee (per section)	$100	$150
Reciprocity Application	$100	$250
Duplicate License	$25	$50
Renewal	$400	$600
Retired License	$150	n/a
License certification	n/a	$40

3) *CAB Issue #4: License Issuance Date.* BPC § 5600(a) specifies that all licenses issued or renewed under the Act expire at 12 midnight on the last day of the birth month of the license-holder in each odd-numbered year following the issuance or renewal of the license. As a result, the term of that license is tied to the licensee's birth month. This means an individual can receive an initial license that is valid for less than the full two-year term. The CAB reports that it has had candidates for licensure postpone licensure because they do not want to pay for a license that will expire in a short amount of time. To remedy this situation and make the initial licensure and renewal process and costs more efficient for both licensees and the CAB, the CAB would like to amend BCP §

5600 to provide that the initial license shall expire at the last day of the month in which the license was issued during the second year of a two-year term.

Staff Recommendation: The Board should advise the Committees if this change achieves any administrative efficiency or if it will be difficult to implement.

Board Response: The Board does not believe this will be difficult to implement and that it will improve the initial licensure process for candidates. The Board will achieve administrative efficiency by eliminating the need to disseminate and track licenses that are valid for less than two years. An additional benefit will be that eventually Board funding will stabilize over fiscal years, which will allow the Board and the Department's Budget Office to plan fiscal needs more accurately. Currently, the Board has peaks and valleys with funding because all licenses renew in odd years which provides a certain level of uncertainty in budget related matters.

Sunset Recommendation: Committee amendments will require licenses to expire two years from the last day of the month in which the license was issued, or two years from the date on which the renewed license was last expired.

4) *CAB Issue #5: License Expiration Notification.* Existing law provides that a license, which has expired, may be renewed at any time within five years after its expiration. After five years, a license is not renewable, and the individual must reapply for an entirely new license and meet the current requirements for licensure, unless specifically exempt, and pay all of the fees. Existing law requires the CAB to send written notice by registered mail to expired license holders 90 days in advance of the expiration of the fifth year that a renewal fee has not been paid. The Board would like to amend BPC §5600.1 to provide notification via email or regular mail, rather than requiring notification by certified mail. As noted by the CAB, a significant number of the notices currently sent are returned as undeliverable.

Staff Recommendation: The CAB should inform the Committees about the number of five-year expiration notices that it current sends annually. CAB should advise the Committees as to the experience other regulatory programs with a similar effort and the impact to licensees. The Committees may wish to consider updating the Act in order to assist CAB in achieving cost savings related to sending email vs. registered email.

Board Response: During 2022, the Board mailed a total of 724 expiration notices to its licensees. Of those 724, 252 were returned to the Board as undeliverable or deceased and 107 provided no response (the Board did not receive a return card or undeliverable mail). A similar change was enacted in 2022 for the Board of Professional Engineers, Land Surveyors and Geologists (SB 1120, Chapter 302, Statutes of 2022).

Sunset Recommendation: Committee amendments will delete the requirement that license expiration notices be sent by registered mail.

5) *CAB Issue #11: State of Emergency Waiver.* During the pandemic, due to the shutdown of testing centers, the Board identified a provision in its regulations that impacted some

candidates for licensure. Specifically, the Board's regulations require that for a candidate to be considered active, they must have taken an exam within the preceding five years. Some candidates who were close to the five-year limit between exams were impacted by their inability to test due to test center closures and thus maintain their active status. Due to the pandemic, candidates who were nearing their five-year mark were impacted by the closure of testing centers. Per CCR 109(a)(3) "Active in the examination process" shall mean that there has not been a period of five or more years since the candidate last took an examination as a candidate of the Board, or the candidate has been determined by the Board to be eligible. The Board requests authority to waive this requirement, for a limited duration, during a future declared emergency.

Staff Recommendation: The CAB should provide any additional technical updates or amendments to the Committees.

Board Response: Thank you for your consideration, proposed amendments are included.

Sunset Recommendation: Committee amendments will authorize the board to extend an application of a candidate who is completing licensure requirements when there is a state of emergency proclaimed by the Governor.

6) *CAB Issue #13: Technical Clean up.* There may be a number of technical statutory changes or updates, which may improve the CAB operations. For example, the CAB would like to require that licensees who have an email address of file with the CAB maintain that email address to maximize the online licensing and renewal system and provide more timely updates to its licensing population, Additionally, the CAB requests to revise code sections to include gender neutral language.

Staff Recommendation: The Committees may wish to amend the Act to include technical clarifications.

Board Response: Thank you for your consideration, suggested amendments are attached.

Sunset Recommendation: This bill makes numerous technical changes such as replacing gendered language. Additionally, this bill authorizes the board to collect email addresses from applicants and licensees. Committee amendments will further require licensees to report the entity though which they provide architectural services and the board to post on its website each licenseholder's current mailing address and the name and address of the architecture firm where they work.

7) *CAB Issue #14: Continued Regulation.* Clients and the public are best protected by strong regulatory boards with oversight of licensed professionals. CAB has proven to be a competent steward of the architect profession and has worked to respond to issues in a timely, appropriate manner. However, the efficiency of CAB regulating various professions as a stand-alone regulatory program, combined with a technical committee that provides recommendations as to the licensure of a separate profession, needs to be evaluated. Maintaining status quo could lead to future fund issues and may generally not prove feasible. Strong consideration should be given to evaluate consolidation efforts and

discussions about whether CAB's organizational structure and composition should more appropriately reflect the multidisciplinary regulatory role it plays.

Staff Recommendation: The CAB should be continued, and reviewed again on a future date to be determined.

Board Response: The Board concurs with the Staff Recommendation.

Sunset Recommendation: This bill delays the sunset date for the CAB by four years to January 1, 2029. The committees may wish to require the board to convene stakeholder meetings to discuss consolidation of the board and LATC and to include specified data in their next sunset report.

8) *LATC Issue #2: Renewal Timeframe.* BPC § 5680.2 provides that a license that is not renewed within five years of its expiration date may not be renewed, and that the holder of the expired license may apply for and obtain a new license if no fact justifies revocation or suspension of a valid license, the person pays the required fees and takes and passes the current California Supplemental Examination. The Board would like to clarify that a person whose license has been expired for more than five years must comply with the requirements for issuance of a new license.

Staff Recommendation: The LATC should submit proposed changes to the Committees. The LATC should also discuss any new requirements above existing law that would need to be met and explain the consumer protection benefit that would be realized by this proposal.

Board Response: LATC will provide suggested language to the Committee. The Committee believes this change will improve consumer protection by ensuring that someone with an expired license that seeks a new license has met current licensing requirements, such as passage of the exam.

Sunset Recommendation: This bill requires a licenseholder whose license is not renewed within five years of its expiration to pay all of the fees and meet all of the requirements for obtaining an original license when applying for a new license.

9) *LATC Issue #4: Technical Cleanup.* There may be a number of non-substantive or technical statutory changes or updates, which may improve LATC operations. For example, the LATC noted in its 2023 Sunset Review Report, that in order to maximize use of the Board's online system for license application and renewal, it would be beneficial to require those individuals who have an email address to maintain the email address they have on file with the Board. The LATC also noted several places where language could be updated to reflect gender-neutral references. In addition, because of numerous statutory changes and implementation delays, code sections can become confusing, contain provisions that are no longer applicable, make references to outdated report requirements, and cross-reference code sections that are no longer relevant. The LATC's sunset review is an appropriate time to review, recommend, and make necessary statutory changes.

Staff Recommendation: The Committees may wish to amend the Act to include technical clarifications.

Board Response: Thank you for your consideration, proposed changes are included.

Sunset Recommendation: This bill makes numerous technical changes such as replacing gendered language. Additionally, this bill authorizes the LATC to collect email addresses from applicants and licensees.

10) *LATC Issue #5: Continued Regulation.* As a result of a legislative reorganization, LATC was established on January 1, 1998, to replace the former Board of Landscape Architects and was placed under the purview of the CAB. While its purpose is to act in an advisory capacity to CAB on examination and other matters pertaining to the regulation of the practice of landscape architecture in California, LATC does incur programmatic costs. While LATC and CAB share an Executive Officer and Assistant Executive Officer, LATC has five separate staff and CAB operations likely supplement LATC operations. There are costs related to any government agency functions, including a statutorily-designated committee with statutorily-mandated responsibilities. LATC has historically faced cost pressures and recently raised fees on licensees due to ongoing rising expenditures and program costs. Now, CAB is also facing shortfalls and will need to increase revenue to continue effective operations. It would be helpful for the committees to understand whether CAB's composition should more appropriately reflect the multidisciplinary regulatory role it plays and, rather than continuing LATC as its own entity, landscape architect representation should be added to CAB in lieu of a committee. Strong consideration should be given to evaluate consolidation efforts and discussions about whether LATC's organizational structure makes sense, including fiscal sense, moving forward.

Staff Recommendation: LATC and CAB should provide additional information related to program-wide considerations and whether efficiencies will be realized through formal regulation by one entity. LATC and CAB should inform the committees about existing overlap in operations today and how a multidisciplinary board structure, maintaining licensure for landscape architects through the Act, could improve effectiveness.

Board Response: LATC believes that a merged board could provide efficiencies as well as give landscape architects a direct voice in the oversight of their profession, rather than an advisory role. There are approximately 22 states with a blended board so there are models we can look to for guidance. The LATC and CAB leadership have met to discuss the concept and are continuing discussions on the details of a possible combined structure. Over the years, LATC has made changes to its operations to align more closely with the Board's, so a structural change should not be difficult to implement.

The Board will be able to realize efficiencies by merging the administrative, licensing, and enforcement units of LATC and CAB. Staff will continue to operate as they have, but duplicated duties such as purchasing, reporting, budgets, and cashiering will no longer be split among multiple staff, and enforcement and licensing workload will be integrated

under CAB's existing management. Additionally, executive management will no longer be required to separately account for and divide time into another program they oversee, which will allow them and all staff to work more efficiently.

Sunset Recommendation: This bill delays the sunset date for the CAB by four years to January 1, 2029, and as previously stated, the committees may wish to require the board to convene stakeholder meetings to discuss consolidation of the board and LATC and to include specified data in their next sunset report.

AMENDMENTS:

For the reasons stated in the discussion of sunset issues above, committee amendments will do all of the following:

1) Increase various fees to their statutory maximum and set new statutory fee caps:

Fee Type	New Fee Amount	New Fee Cap
Exam Eligibility Review Application	$100	$150
Exam Fee (per section)	$100	$150
Reciprocity Application	$100	$250
Duplicate License	$25	$50
Renewal	$400	$600
Retired License	$150	n/a
License certification	n/a	$40

2) Require licenses to expire two years from the last day of the month in which the license was issued, or two years from the date on which the renewed license was last expired.

3) Delete the requirement that license expiration notices be sent by registered mail.

4) Authorize the board to extend an application of a candidate who is completing licensure requirements when there is a state of emergency proclaimed by the Governor.

5) Require licensees to report the entity though which they provide architectural services.

6) Require the board to post on its website each licenseholder's current mailing address and the name and address of the architecture firm where they work.

REGISTERED SUPPORT:

California Architects Board
California Council of the American Society of Landscape Architects

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1454 (Ashby) – As Amended June 10, 2024

SENATE VOTE: 37-0

SUBJECT: Bureau of Security and Investigative Services: sunset: limited liability companies: federally recognized tribes

SUMMARY: Extends the sunset date for the Bureau of Security and Investigative Services (Bureau or BSIS), which licenses and regulates security guards, alarm company operators, repossessors, locksmiths, and private investigators, until January 1, 2029, and makes additional changes to the various practice acts regulating these professions, including language permitting the BSIS to issue licenses to tribes and tribally-owned businesses, and technical changes to the BSIS's scope of enforcement.

EXISTING LAW:

1) Establishes the Bureau within the Department of Consumer Affairs (DCA) to license and regulate the locksmith, repossessor, private investigator, proprietary security, private security, and alarm company industries. (Business and Professions Code (BPC) §§ 6980.1, 7501, 7512.4, 7574.01, 7580, 7591)

2) Establishes Chapter 8.5 within the BPC to provide for Bureau regulation of locksmiths. (BPC §§ 6980 *et seq.*)

3) Establishes the Collateral Recovery Act to provide for Bureau regulation of repossessors. (BPC §§ 7500 *et seq.*)

4) Establishes the Private Investigator Act to provide for Bureau regulation of private investigators. (BPC §§ 7512 *et seq.*)

5) Establishes the Proprietary Security Services Act to provide for Bureau regulation of proprietary private patrol officers and employers. (BPC §§ 7574 *et seq.*)

6) Establishes the Private Security Services (PSS) Act, which provides for the Bureau's regulation of private patrol operators (PPOs) that employ private security guards and security patrolpersons. (BPC §§ 7580 *et seq.*)

7) Establishes the Alarm Company Act to provide for the Bureau's regulation of alarm company operators and agents. (BPC §§ 7590 *et seq.*)

8) Sets sunset dates for each practice act as if each act were to be repealed January 1, 2025, to provide for legislative oversight. (BPC §§ 6981, 7511.5, 7573.5, 7576, 7588.8, 7599.80)

9) Authorizes any board, bureau, or commission within DCA to establish a system for the issuance of citations which may contain an order of abatement or an order to pay an

administrative fine to licensees found in violation of the applicable licensing act, with exception of persons licensed under the Collateral Recovery Act. (BPC § 125.9)

10) Makes a violation of specified code sections, including those involving locksmiths, repossessors, alarm companies, and private investigators, an infraction punishable by a fine of not less than $250, and not more than $1000. (BPC § 146)

11) Prohibits a licensed private investigator or officer, director, partner, qualified manager, or employee of a licensed private investigator from knowingly making any false report to their employer or client for whom information was being obtained. (BPC § 7539(b))

12) Requires that a written report by a licensed private investigator shall not be submitted to a client except by the licensee, qualified manager, or a person authorized by one or either of them, and that the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in the report are true and correct. (BPC § 7539(c))

13) Authorizes the BSIS to deny, suspend, or revoke a license issued to a private investigator, as defined, if they willfully failed or refused to render services or a report to a client as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties. (BPC § 7561.1)

14) Authorizes the Bureau to license private investigators and alarm companies formed as a limited liability company (LLC) through January 1, 2025. (BPC §§ 7512.3, 7512.15, 7520.3, 7525.1, 7529, 7533.5, 7538.5, 7539, 7593.1, 7593.5, 7599.345)

15) Requires private investigator LLC licensees to maintain liability insurance for up to $5,000,000, depending on the membership size, as a condition of the issuance, reinstatement, reactivation, or continued valid use of a license through January 1, 2025. (BPC § 7250.3)

16) Requires private investigator licensees organized as LLCs to annually report to the Bureau the date and amount of any claims paid during the prior calendar year from the required general liability insurance policy no later than March 1 until January 1, 2025. (BPC § 7520.3)

17) Requires alarm company operator licensees organized as LLCs to annually report to the Bureau the date and amount of any claims paid during the prior calendar year from the required general liability insurance policy no later than March 1. (BPC § 7599.34)

18) Authorizes the Bureau to require, before issuing a firearms permit, a security guard registrant to complete and pass an assessment to evaluate whether an applicant for a firearms permit who is a registered security guard, at the time of the assessment, possesses appropriate judgment, restraint, and self-control for the purposes of carrying and using a firearm during the course of their security guard duties through January 1, 2025. (BPC § 7583.47)

19) Provides seventeen licensure exemptions from the Proprietary Security Services Act and Private Security Act, including but not limited to:

a) Uniformed peace officers,

b) Attorneys at law,

c) Persons engaged solely in the business of securing information about persons or property from public records,

d) Licensed insurance adjusters,

e) A collection agency or their employee, and

f) Banks, collection agencies, and other financial institutions.

(BPC § 7574.14; 7582.2)

20) Defines "person" for the purposes of licensure as a PPO as, "any individual, firm, company, association, organization, partnership, and corporation, (BPC § 7580.3)

21) Establishes that certain states, including California, maintain criminal jurisdiction over federal Indian lands. (Public Law 83-280 (67 Stat. 588) (P.L. 280))

THIS BILL:

1) Extends the various sunset dates governing the BSIS and its administration and enforcement of its respective practice acts to January 1, 2029.

2) Extends the respective sunset dates authorizing licensed private investigators and alarms companies to be organized as an LLC by five years, to January 1, 2030.

3) Authorizes the BSIS to cite persons licensed under the Collateral Recovery Act for violations of the act or other BSIS regulation.

4) Requires that every agreement between a private investigator and a client, including, but not limited to, contract agreements and investigative agreements, including all labor, services, and materials to be provided for the scope of work conducted by the private investigator, shall be in writing, and shall contain, but not be limited to, the following:

a) The licensed private investigator's name, business address, business telephone number, and license number,

b) A disclosure that private investigators are licensed and regulated by the BSIS,

c) The approximate start and completion dates of the work to be provided,

d) A description of the scope of the investigation or services to be provided,

e) An indication as to whether or not a written report is to be provided to the client and the agreed upon method of delivery of that written report, as applicable,

f) An explanation of the fees agreed upon by the parties, including a breakdown of how the fees are assessed by the licensee, and

g) Any other matters agreed upon by the parties.

5) Requires that any amendment to an initial service agreement between a private investigator and a client shall be in writing, as specified and with certain conditions, including that the amendment be legible, and that the client approve the amendment in writing before further work commences.

6) Requires that private investigators maintain a legible copy of the signed agreement and investigative findings, including any written report, for a minimum of two years, and shall be made available for inspection by the BSIS upon demand.

7) Deletes several exempted entities from the Proprietary Security Services Act, including:

a) Persons engaged exclusively in the business of obtaining and furnishing information as to the financial rating of another person,

b) A nonprofit, charitable society or association incorporated under the laws of California,

c) Attorneys at law, in performance of their licensed duties,

d) A collection agency or an employee thereof while acting within the scope of their employment,

e) Admitted insurers and agents, and licensed insurance brokers,

f) Banks,

g) A person engaged solely in the business of securing information about persons or property from public records,

h) A licensed insurance adjuster, in performance of their licensed duties,

i) A savings association subject to the jurisdiction of the Commissioner of Financial Protection and Innovation or the Office of the Comptroller of the Currency, and

j) A secured creditor engaged in the repossession of the creditor's collateral and a lessor engaged in the repossession of leased property in which it claims an interest.

8) Exempts federally recognized tribes that have one or more employees who provide unarmed security services only for the federally recognized tribe, and an unarmed individual employed by a federally recognized tribe who is only providing security services for the federally recognized tribe, from the Proprietary Security Services Act.

9) Defines "federally recognized tribe" and "participating tribe" for the purposes of exemption from the Proprietary Security Services Act and inclusion in the definition of "person" for licensure, registration, and certification under the Private Security Services Act.

10) Exempts tribes that apply for a license as a private patrol operator from remaining in good standing with the Secretary of State if the tribe's business is chartered under tribal or federal law.

11) Specifies that the PSS Act does not infringe upon or diminish existing rights of federally recognized tribes as set forth in federal, state, or tribal law.

12) Declares that the state shall not regulate any activity within the jurisdiction of a federally recognized tribe.

13) Makes other conforming technical changes as necessary to allow tribal participation in BSIS-regulated security activities.

14) Various non-substantive, technical changes to align several areas of statute relative to BSIS regulated activities.

FISCAL EFFECT: According to the Senate Committee on Appropriations:

> The 2024-25 Governor's Budget provides approximately $19.32 million (Private Security Services Fund and Private Investigator Fund) and 77.9 positions to support the continued operation of the BSIS's licensing and enforcement activities. The BSIS reports minor and absorbable workload to revise Private Patrol Operator, Firearms Training Facility and Baton Training Facility applications to accommodate the federally recognized tribe provisions of this bill. The Office of Information Services within the Department of Consumer Affairs reports IT costs of approximately $5,000, which is absorbable through the redirection of existing maintenance resources.

COMMENTS:

Purpose. This bill is the sunset review vehicle for the Bureau of Security and Investigative Services, authored by the Senate Committee on Business, Professions and Economic Development. The bill extends the sunset date for the Bureau and enacts technical changes, statutory improvements, and policy reforms in response to issues raised during the Bureau's sunset review oversight process.

Background.

Sunset Review. Each year, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development hold joint sunset review oversight hearings to review the licensing boards under the Department of Consumer Affairs (DCA). The DCA boards are responsible for protecting consumers and the public and regulating the professionals they license. The sunset review process provides an opportunity for the Legislature, DCA, boards, and stakeholders to discuss the performance of the boards and make recommendations for improvements.

Each board and bureau subject to review has an enacting statute that has a repeal date, which means each board requires an extension before the repeal date. This bill is one of the "sunset" bills that are intended to extend the repeal date of the entities undergoing sunset review, as well as include the recommendations from the sunset review oversight hearings.

This year, there are five sunset review bills authored by the Assembly Committee on Business and Professions and five sunset review bills authored by the Chair of the Senate Business, Professions and Economic Development Committee.

The Bureau of Security and Investigative Services. The private security industry in this country dates back to the 19th century when private citizens performed many duties that are associated with Federal and state law enforcement today. Growth in the number of individuals and the breadth of activities performed (guarding railroad shipments, detective work to investigate crimes, tracking down and apprehending criminals, and providing security advice to banks) were integral to determining that regulation of the industry was necessary.

In California, regulatory oversight of the private security industry began in 1915 when the Detective Licensing Board was created under the State Board of Prison Directors to license and regulate private detectives. The Detective Licensing Board was subsequently renamed the Detective Licensing Bureau and its statutes are currently known as the Private Investigator Act. In 1955, the Detective Licensing Bureau became the Bureau of Private Investigators and Adjustors that was combined with the Collection Agency Licensing Bureau in 1970 and renamed the Bureau of Collection and Investigative Services.

Assembly Bill 936 (Rainey, Chapter 1263, Statutes of 1993) formally renamed the Bureau as its current identifier, the Bureau of Security and Investigative Services (Bureau or BSIS).

The Bureau's mission, as stated on their website and publications, is:

> *To protect and serve the public through effective regulatory oversight of the professions within the Bureau's jurisdiction.*

To achieve this mission, the Bureau issues licenses, registrations, certificates, and permits and currently licenses about 433,000 licensees and companies. The Bureau administers six practice acts and regulates the industries affected by each practice act:

Alarm Company Act - An alarm company operator is a business that sells (at the buyer's home or business), installs, maintains, monitors, services, or responds to alarm systems. An alarm agent is an employee of the alarm company. Each alarm company licensee must designate a person who is associated with the license in the Bureau's records to serve as the qualified manager (QM).

Collateral Recovery Act - A repossession agency contracts with a legal owner (e.g., credit grantor of personal property) to locate and/or recover property sold under a security agreement, most commonly a 2 motor vehicle. Each repossession agency licensee must designate a person who is associated with the license in the Bureau's records to serve as the QM.

Locksmith Act - A locksmith operates a business that installs, repairs, opens, or modifies locks, as well as originates keys for locks. Locksmiths must hold a locksmith license and employees of locksmiths who perform locksmithing duties must hold a locksmith registration, issued by the Bureau. Persons who only make duplicate keys from an existing key are exempt from regulation by the Bureau.

Private Investigator Act - A private investigator is an individual who investigates crimes; the identity, business, occupation, or character of a person; the location of lost or stolen property; or the cause of fires, losses, accidents, damage, or injury. In addition, a private investigator secures evidence for use in court. Private investigators may protect persons only if such services are incidental to an investigation. Private investigators may not protect property. As specified in the Private Investigator Act, individuals performing private investigation activities must hold a private investigator license issued by the Bureau. Each private investigator licensee must designate a person who is associated with the license in the Bureau's records to serve as the QM.

Private Security Services Act - A private patrol operator is a company that employs security guards and contracts with other persons or businesses to protect persons or property, or to prevent theft (a security guard is not authorized to contract themselves out for private security services unless they also hold a private patrol operator license). Private patrol operators are prohibited from performing any investigation except as incidental to the theft or loss of property for a company it has contracted with to provide private security services. Each private patrol operator licensee must designate a person, who is associated with the license in the Bureau's records, to serve as the QM.

Proprietary Security Services Act - A proprietary private security employer is a person or company that employs one or more proprietary private security officers. The proprietary private security officers may only provide security services to their employing proprietary private security employer, i.e. a proprietary private security employer cannot contract out the services of its proprietary private security officers to any other person or entity. Proprietary private security officers are not authorized to carry a firearm nor any other weapon, including batons, chemical weaponry, or stun guns.

Qualified Managers - The Alarm Company Act, Collateral Recovery Act, Private Investigator Act, and Private Security Services Act require licensees to designate a person to serve as a QM. The QM is responsible for managing and directing the day-to-day activities of the licensed business, and may be the licensee, an agent of the licensee, e.g., officer of a corporation, or officer or member of a limited liability company (when applicable), or any other person designated by the licensee to serve in this capacity. The person serving as the QM must meet the experience requirements specified in the practice act and pass the licensing examination.

SUNSET ISSUES FOR CONSIDERATION:

As part of the BSIS's sunset review, a number of issues and priorities were raised by the board's staff, stakeholders, and legislative committees. These issues were first outlined in the BSIS's "Sunset Review Report 2023" submitted to the Legislature on January 1, 2024. Subsequently, as part of the Joint Sunset hearings conducted by the Assembly Committee on Business and Professions and the Senate Business, Professions and Economic Development Committee, committees issued "background papers" highlighting recommendations to the BSIS regarding issues raised in their report. The background paper is available on the Committee's website: https://abp.assembly.ca.gov/jointsunsethearings. On April 11, DCA and BSIS staff responded to these recommendations and presented committee staff with potential reforms and statutory language to address various issues. This bill addresses certain issues discussed in these reports and responses.

While all of the issues identified in the background paper remain available for discussion, the following items are being addressed the current language of this bill or are otherwise under active deliberation:

1) *Issue #2 – License Exemptions from the Proprietary Security Services Act.* The Proprietary Security Services Act regulates proprietary private security employers (employers) and proprietary security officers (officers). An employer is a person (or company) who has one or more employees who provide security services for the employer and only for the employer. An officer is employed exclusively by any one employer whose primary duty is to provide security services for his or her employer, whose services are not contracted to any other entity or person.

   The Proprietary Security Services Act, which regulates employers and officers includes 17 exemptions from licensure (BPC § 7574.14) that include attorneys, collection agencies, insurance adjusters, motion picture studios, among others. Exemptions also include federal and state employees under certain circumstances. The license population consists of 630 proprietary private security employers and 7,896 registered security officers, which is a fraction of the license population under the Bureau's administered Private Security Services Act.

   The Act was originally enacted by SB 741 (Maldonado, Chapter 741, Statutes of 2009), which included the exemptions from licensure. BPC § 7474.14 has been amended several times, but not concerning existing exemptions.

   Staff Recommendation in the Background Paper: The Bureau should advise the Committees of whether the exemptions from licensure and registration are still valid or appropriate. Further, the Bureau should discuss how exemptions impact its ability to adequately regulate the profession. The Bureau should also inform the Committees of whether there should be additional exemptions.

   Board Response to the Background Paper: The Proprietary Security Services Act contains the same exemptions as the Private Security Services Act (Business and Professions Code (BPC) § 7582.2) and the Private Investigator Act (BPC § 7522). The Bureau believes that several of these exemptions are not valid and appropriate and should be eliminated.

   The exemptions in BPC § 7574.14 include entities like non-profits, attorneys, admitted insurers and adjusters, and collection agencies. Proprietary Private Security Employers employ Proprietary Private Security Officers who are not authorized to carry weapons. Non-profits, such as churches and/or schools, often employ security personnel and, by virtue of the exemption, the employer is not required to ensure appropriate training or maintain training records for their security officers. This exemption poses a potential risk for consumer protection and public safety as the Bureau is unable to enforce training standards for the employers. Many of the remaining exemptions in BPC § 7574.14 are not applicable to the private security industry and may require further consideration, such as attorneys at law or admitted insurance adjusters. At this time, the Bureau does not have any recommendations for additional exemptions.

   Sunset Recommendation: This bill deletes various exemptions from the Proprietary Security Services Act consistent with recommendations outlined by the BSIS in their response,

including but not limited to: charitable societies, collection agencies, insurers and insurance brokers, attorneys, and certain banks and financial institutions.

2) *Issue #3 – LLCs for Alarm Companies and Private Investigators.* The California Revised Uniform Limited Liability Company Act (Corporations Code § 17701.04 (b)) allows a business that is required to be licensed under the Business and Professions Code to form as an limited liability company (LLC), so long as the practice act specifically authorizes its licensees to form as an LLC. Pursuant to this authority, legislation was passed previously granting licensees under the Alarm Company Act (SB 1077, Price, Chapter 291, Statutes of 2012) and licensees under the Private Investigators Act (AB 1608, Olsen, Chapter 669, Statutes of 2014) to form LLCs, provided certain conditions are met and subject to respective sunset dates.

   The authority in the Alarm Company Act and the Private Investigator Act contain sunset provisions because the Legislature determined, at the time, that the authorization would need to be reviewed to determine if licensure as an LLC posed any specific problems. The Senate Committee on Judiciary, which recommended the sunset dates stated in its analysis of SB 1077, "historic concerns with adding a licensed profession to the list of authorized LLPs and LLCs in this state are substantially similar and necessitate that information, including claims information and other relevant data, be provided to this Committee to both demonstrate the appropriateness and need for LLC or LLP status, and to provide the evidence relevant to the issue of adequacy of insurance levels. Insurance and sunset requirements have been vital components in the ability of this Legislature to strike a balance between allowing professional licensed service providers to operate in a mode offering tax and liability-limiting advantages and preserving, to an appropriate degree, the ability of a party injured by professional negligence to recover damages for that injury."

   Since that time, statute has required alarm company LLCs and private investigator LLCs to report any claim data to the Bureau on an annual basis, which the Bureau is then to report to the Legislature. Over the last ten years, the Bureau has not become aware of any major issues arising as a result of these companies being licensed as LLCs and the companies licensed as LLCs have not created any consumer protection issues the Bureau is aware of and the claims reporting has been minimal over the past several years. In fact, the Bureau reports in the past five years, the Bureau has not had any LLCs report paying out any claims.

   The authority in both practice acts are set to expire January 1, 2025, which requires the Committees to consider extending this authority once again. The Committees may want to consider whether there are considerable consumer protection issues resulting from issuing licenses to alarm company and private investigator LLCs that justify continuing to review and extend these provisions at regular intervals.

   Staff Recommendation in the Background Paper: The Bureau should report to the Committees the number of reported claims against alarm company operator and private investigator LLC licensees' liability insurance it has received since. The Bureau should also advise the Committees of the consumer protection value provided by continuing to include a sunset date on these provisions.

   Bureau Response to Staff Recommendation: The Bureau has not received any reported claims against alarm companies nor against private investigators organized under a limited liability

company (LLC) structure. In researching this issue, the Bureau has not found any such claims ever reported to the Bureau. Continued reporting on this issue is not onerous to the Bureau, but it is unclear that it is necessary from a consumer protection standpoint.

Sunset Recommendation: This bill extends the sunset date on the ability for alarm companies and private investigators to organize as LLCs until January 1, 2030, while preserving existing reporting requirements to maintain Legislative oversight of such licensed professions.

3) *Issue #6 – Licensure for Tribes and Tribally-Owned Businesses.* Tribal governments are distinct political entities that have the right to exercise sovereignty concerning their members and territories. Tribes and states have adjacent jurisdictions and some of California's tribes' territories cross state borders. After multiple tribes applied for licensure with the Bureau to perform the scope of a licensee while outside tribal or federal boundaries, the Bureau found that current law does not provide a pathway for a federally recognized tribe seeking to operate as a registered proprietary private security employer under the Proprietary Security Services Act or as a licensed private patrol operator under the Private Security Services Act. There are two primary obstacles – lack of recognition of a tribal government or its businesses as a potential licensee and a requirement to be in good standing with the Secretary of State.

   Unlike many other license types in California, which are issued to the individual, (e.g., a nurse, veterinarian, physician and surgeon, funeral director, or cosmetologist), in the case of a proprietary private security employer or a private patrol operator, the registration or license is issued to the business. The Proprietary Security Services Act and the Private Security Services Act each define a "person," to whom a license or registration may be issued as a variety of business types that include individual owners, firms, companies, associations, organizations, partnerships, and corporations (BPC §§ 7574.01 and 7580.3).

   Because tribes are sovereign governments, they have rights to self-governance that an individual (sole proprietor), firm, company, partnership, or corporation does not possess. Because of a tribe's status as a sovereign government, a tribe is also not an association or organization. As a result, the Bureau is unable to issue a registration or license to tribal businesses.

   Tribes often pursue economic development initiatives by operating for-profit businesses to provide vital services to, and create job opportunities for, its members. These businesses can, but are not required to, register their businesses with the Secretary of State as foreign corporations. A tribe may also form a corporation as a tribally chartered corporation under tribal law or as a federally chartered corporation under Section 17 of the Indian Reorganization Act. Tribes have the right to choose which business form is best for their businesses. However, AB 830 (Flora, Chapter 376, Statutes of 2021) established remaining in good standing with the Secretary of State as a condition of registration or license maintenance (BPC §§ 7574.36 and 7587.11).

   Other boards and bureaus share similar challenges associated with issuing licenses to tribal businesses including the Bureau of Automotive Repair, the Structural Pest Control Board, and the Contractors State License Board, which recommended in its 2023 Sunset Review Report to address this issue to expand business opportunities and reduce licensure barriers for California's 109 federally recognized tribes conducting business operations outside of its tribal boundaries.

Staff Recommendation in Background Paper: The Bureau should advise the Committees on any concerns regarding licensing tribes and/or tribally owned businesses that are tribally chartered or federally chartered. The Bureau should specify whether good standing with the Secretary of State is a necessary requirement for tribes and their companies as a condition of licensure. The Bureau should also advise the Committees of other potential barriers to licensure for tribes for each of its practice acts.

Bureau Response to Staff Recommendation: The Bureau supports the idea of encouraging tribes to obtain state licensure, but recognizes they are sovereign entities that raise unique issues when it comes to state licensure and the Bureau's enforcement process. Since the law does not presently permit tribal licensure, the Bureau has worked collaboratively with tribes in the past to identify alternative arrangements to enable them to provide security services, like creating a corporation or licensing an individual. The Bureau looks forward to working with the Legislature on this issue.

Sunset Recommendation: This bill adds definitions and conforming language to the various practice acts under the BSIS authorizing federally recognized tribes to utilize and participate in BSIS-regulated activities, including utilizing private or proprietary security for activities outside of tribal boundaries. Tribes and their respective employees would still be required to meet all standards for BSIS licensure, except for the requirement that the licensee be registered with the Secretary of State, as tribes differ in their particular organizational structure. Similar language is also being added to statute as part of the CSLB's sunset review bill, as well (SB 1455, Ashby).

4) *Issue #8 – Unlicensed Activity Enforcement.* The Bureau prioritizes cases with the highest potential for public harm and allocates its limited enforcement resources to cases involving use of force, fraud and dishonesty, unlicensed activity, and illegal or unethical behavior are addressed appropriately and timely. The Bureau may also refer the most egregious cases of unlicensed activity to DCA's Division of Investigations; however, the Bureau's 2023 Sunset Review Report discusses various issues relating to unlicensed activity enforcement:

   - *Staffing Considerations*. Needing to catch people in the act led the Bureau to change its enforcement strategy since the last sunset review. According to the Bureau, private security makes up the vast majority of BSIS investigations and complaints. Additionally, private security who engage in unlicensed activity often do so at night and on weekends. The Bureau's enforcement staff were primarily analysts who worked regular business days and hours. Recognizing a need for enforcement staff to be available at times when unlicensed activity is likely to occur, the Bureau reclassified two analyst positions as Special Investigators (SIs) to work in the field and at night or on weekends, when warranted.

     The Bureau reports the SIs focus on time in the field investigating licensees and following unlicensed activity leads. Additionally, the SIs participate in multi-agency sweeps and sweeps with local law enforcement. From July 1, 2019 through June 30, 2023, the Bureau issued 210 unlicensed activity citations, which is almost a 290% increase from the preceding four years.

     Despite the success of the SIs, the volume of unlicensed activity complaints over the past few years has nearly doubled. The Bureau currently receives an average of 373

complaints per year alleging unlicensed activity, which is a 90% increase over the 196 reported for the year ending June 30, 2018.

- *Bureau Outreach Efforts.* This increase may be attributed to Bureau outreach efforts. Bureau management and staff have attended and presented at meetings, conferences, and other events to educate local law enforcement and government agencies on licensing requirements and BSIS laws and regulations. Additionally, the Bureau continues to update consumer educational brochures as laws and regulations change. While educating the public is in the best interest of consumer protection, it tends to result in a higher number of reports of unlicensed activity, which could put a strain on Bureau resources.

- *Infraction Authority.* BPC § 146 makes unlicensed activity in specified professions an infraction, punishable by a fine of not less than two hundred fifty dollars ($250) and not more than one thousand dollars ($1,000). The professions listed in BPC § 146 include locksmiths, repossessors, alarm companies, and private investigators (in addition to most 34 other professions under the Department's purview). However, the private security industry, which has the highest reported incidence of unlicensed activity under the Bureau's jurisdiction, are not.

  The Bureau recommended adding the Private Security Services Act and the Proprietary Security Services Act to the list of professions specified in BPC § 146. The Bureau states that authorizing the Bureau to issue an infraction for unlicensed activity will increase the impact of its unlicensed activity enforcement strategy because administrative fines do not compel an unlicensed person to comply with licensing laws as effectively as a criminal citation.

- *Collateral Recovery Act.* Repossession agencies or agents who practice without licensure avoid licensing fees, fingerprinting, and background check requirements to obtain Bureau approval, and circumvent meeting the Bureau's standards regarding documentation and treatment of property.

  BPC § 125.9 authorizes regulatory programs within the Department to establish a system for the issuance of citations for violations of the practice acts administered by those programs; however, this section exempts the Collateral Recovery Act from these provisions. In addition, BPC § 148 authorizes programs within the Department to establish a system similar to that authorized by BPC 125.9 for the issuance of citations for unlicensed activity. Because citations are a common method of enforcing unlicensed activity, it is not clear what options the Bureau has concerning an unlicensed repossessor other than a criminal referral.

Staff Recommendation in the Background Paper: The Bureau should advise the Committees of how it anticipates meeting increasing unlicensed activity workload demands. Additionally, the Bureau should identify the anticipated volume of infractions the Bureau would issue and the circumstances under which the Bureau would file an infraction. Finally, how does the Bureau meet its consumer protection mandate when enforcing the Collateral Recovery Act? The Bureau should advise the Committees if additional enforcement tools are necessary to help address unlicensed activity and whether any statutory changes are necessary to enhance these and other efforts to enforce its licensing requirements.

Bureau Response to Staff Recommendation: The addition of two Special Investigators (SIs) to the Bureau's enforcement team has added a substantial contribution to taking action against unlicensed practitioners and has proven to be a valuable asset in combatting unlicensed activity. The Bureau is exploring reclassifying two additional analyst positions to SIs to increase BSIS's presence in the field.

The Bureau is unable to estimate the anticipated volume of infractions, however as previously noted, with the addition of the SIs to the enforcement team and increased presence in the field, the Bureau issued significantly more unlicensed activity citations over the past four years than in the preceding years. The Bureau anticipates that trend will increase with the addition of more SIs and increased public presence. The authority to pursue infractions for unlicensed activity in the private security field would enable the Bureau to take more effective action in situations where an administrative citation does not deter the actions or garner compliance with the law, or in situations where the violations are more egregious in nature, such as the unlicensed possession of weapons or allegations involving use of force. For these reasons, the Bureau seeks amendments to its authority to take additional enforcement action.

It is challenging for the Bureau to meet its consumer protection mandate when it comes to enforcing the Collateral Recovery Act when dealing with unlicensed repossessors. The Bureau does not have the authority to issue administrative citations for unlicensed repossessors because the industry is exempt from BPC § 125.9. The Bureau relies heavily on education in working with unlicensed repossessors to obtain compliance. Having the authority to issue unlicensed activity citations would be an important and necessary tool in obtaining compliance with the law and would serve as additional evidence if the Bureau had to seek criminal prosecution.

Sunset Recommendation: The bill makes statutory changes to strengthen the BSIS's authority to enforce their regulations and protect consumers, consistent with recommendations outlined in their response to the Committee's background paper. Specifically, this bill amends BPC § 125.9 to allow the BSIS to issue citations related to unlicensed repossession activity or other violations of the Collateral Recovery Act. Additionally, this bill adds infraction authority under BPC § 146 for any practice acts not currently listed, making clear the BSIS has additional enforcement tools against unlawful practice.

5) *Issue #10 – Technical Changes.* Since the Bureau's last sunset review in 2019, the Bureau has sponsored or been impacted by numerous pieces of legislation which address all or parts of the Bureau's duties, oversight authority, licensing requirements, examination standards, among others.

As a result, there may be a number of non-substantive and technical changes to the license law that are needed to correct deficiencies or other inconsistencies in the law which may improve Bureau operations.. Because of numerous statutory changes and implementation delays, code sections can become confusing, contain provisions that are no longer applicable, make references to outdated report requirements, and cross-reference code sections that are no longer relevant. Sunset review is an appropriate time to review, recommend, and make necessary statutory changes.

Staff Recommendation in the Background Paper: The Bureau should recommend cleanup or

technical amendments to the Committees, as necessary.

Bureau Response to Staff Recommendation: The Bureau is proposing several minor, technical changes that should be included in the sunset bill. The changes include clarifying changes to align various sections of the practice acts.

Sunset Recommendation: The sunset bill makes technical changes consistent with language proposed by DCA and BSIS staff, which conforms statute in various practice acts for consistency and alignment with legislation passed since the last sunset review.

6) *Issue #11 – Continued Regulation by the BSIS.* The safety and welfare of consumers is best preserved through a strong licensing and regulatory structure to oversee the security and investigative service professions. The importance of an effective, proactive, efficient Bureau cannot be overlooked, particularly given the authority licensees have to utilize equipment in their normal course of work that is highly regulated and impactful. Ensuring appropriate training, readiness, and oversight of BSIS licensees is necessary to ensure public safety. The Bureau has implemented significant policy changes that improve the Bureau's effectiveness in protecting consumers and improving public safety since its last sunset review.

   Staff Recommendation in the Background Paper: The Bureau should be continued, and reviewed again on a future date to be determined.

   Bureau Response to Staff Recommendation: The Bureau agrees with this assessment. The Bureau is dedicated to its consumer protection mandate and will continue to work with the Legislature and stakeholders to meet its mission of safeguarding California consumers.

   Staff Recommendation: This bill extends the BSIS's oversight of security guards, alarm company operators, repossessors, locksmiths, and private investigators until January 1, 2029.

Additional Issue – Private Investigator-Client Agreements. In addition to issues raised during sunset review, the BSIS has identified another concern that this bill addresses through clarification to the Private Investigator Act. Specifically, there is no language in current law related to agreements between a private investigator and their client, most notably no standard that an agreement - including the scope, terms, and fees for a contract - be in writing. As a result, when the BSIS receives a complaint from a consumer related to a private investigator breaching an agreement, it is difficult for BSIS staff to investigate and often results in back-and-forth accusations between the licensee and client, with little resolution. According to statistics from the BSIS provided to the Committees, 27% of all consumer complaints regarding private investigators allege that the investigator failed to render services or report to the consumer as agreed.

This bill therefore adds language that specifically mandates private investigators enter into a written agreement with clients that details, among other things, the estimated length of work, the scope of investigation, and an explanation of all fees agreed upon by the parties. Upon completion of the investigation, any written report must be provided to the client within 30 days, and the licensee must retain a copy of the agreement and any subsequent findings, amendments, or reports for a minimum of two years.

Current Related Legislation.

SB 1452 (Ashby) is the sunset bill for the California Architects Board and the Landscape Architects Technical Committee. *This bill is pending in this committee.*

SB 1453 (Ashby) is the sunset bill for the Dental Board of California. *This bill is pending in this committee.*

SB 1454 (Ashby) is the sunset bill for the Bureau of Security and Investigative Services. *This bill is pending in this committee.*

SB 1455 (Ashby) is the sunset bill for the Contractors' State License Board. *This bill is pending in this committee.*

AB 3251 (Committee on Business and Professions) is the sunset bill for the California Board of Accountancy. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

AB 3252 (Committee on Business and Professions) is the sunset bill for the Court Reporters Board. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

AB 3253 (Committee on Business and Professions) is the sunset bill for the Board of Professional Engineers, Land Surveyors, and Geologists. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

AB 3254 (Committee on Business and Professions) is the sunset bill for the Cemetery and Funeral Bureau. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

AB 3255 (Committee on Business and Professions) is the sunset bill for the Board of Vocational Nursing and Psychiatric Technicians of the State of California. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

Prior Related Legislation.

AB 229 (Holden), Chapter 697, Statutes of 2021, required that, beginning January 1, 2023, various licensees regulated by the BSIS must complete a course of training in the exercise of the appropriate use of force in order to be issued a license or a firearms permit, and added various other requirements to licensees with regard to incidents of physical use of force, firearm discharge, or other altercations with the public.

SB 1443 (Roth), Chapter 625, Statutes of 2022, rescheduled the sunset review dates for various boards under the Department of Consumer Affairs (DCA), including the BSIS, and extended the extended the authority for a licensed alarm company or private investigation company to be organized as an LLC until January 1, 2025.

SB 1474 (Business, Professions and Economic Development Committee), Chapter 312, Statutes of 2020, among other things, extended the authority for a licensed private investigation company to be organized as an LLC until January 1, 2024.

SB 609 (Glazer), Chapter 377, Statutes of 2019, extended the sunset date for the BSIS to January 1, 2024, and made various changes to the operations of the bureau, including prohibiting BSIS from issuing firearms permits to applicants under 21 years of age, consolidating the Private Investigator (PI) Fund and the Private Security Services (PSS) Fund, and increasing certain fees.

SB 904 (Wieckowski), Chapter 406, Statutes of 2018, extended the authority for a licensed alarm company to be organized as an LLC until January 1, 2024.

SB 559 (Morrell), Chapter 569, Statutes of 2017, extended the authority for a licensed private investigation company to be organized as an LLC until January 1, 2019, subject to certain conditions.

SB 177 (Wieckowski), Chapter 140, Statutes of 2015, extended the authority for a licensed alarm company to be organized as an LLC until January 1, 2019, subject to certain conditions.

AB 1608 (Olsen), Chapter 669, Statutes of 2014, authorized a licensed private investigator to be organized as a limited liability company (LLC) until January 1, 2018, subject to certain conditions.

SB 1077 (Price), Chapter 291, Statutes of 2012, authorized a licensed alarm company to be organized as an LLC until January 1, 2016, subject to certain conditions, and authorized the BSIS to cite unlicensed alarm company operators.

SB 741 (Maldonado), Chapter 361, Statutes of 2009, revised and recasted the existing regulation of proprietary private security officers to require both proprietary private security officers and proprietary private security employers, as defined, to register with the BSIS, and established training and enforcement provisions.

AB 936 (Rainey), Chapter 1263, Statutes of 1993, formally renamed the Bureau as its current identifier, the Bureau of Security and Investigative Services (BSIS).

ARGUMENTS IN SUPPORT:

This bill is supported by the **San Manuel Band of Mission Indians,** who write: "Many tribes, like San Manuel, are forced to conduct some operations off tribal land because there is not enough room on their reservation and trust lands. At the same time, they cannot obtain the appropriate security licensing from the state because there is no box for them to check on the relevant applications. This bill would fix that incongruence by clarifying that tribes may obtain licensing appropriate for their off-reservation activity, like other non-tribal entities."

ARGUMENTS IN OPPOSITION:

None on file.

REGISTERED SUPPORT:

ADT, Inc.
California Alarm Association
San Manuel Band of Mission Indians

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1455 (Ashby) – As Amended May 16, 2024

SENATE VOTE: 38-0

SUBJECT: Contractors: licensing

SUMMARY: Extends the sunset date for the Contractors State License Board (CSLB or board), authorizes the CSLB to issue a license to a federally recognized tribe, requires the awarding authority of a public works contract to use the license classifications prescribed by law, waives the requirement for an applicant to submit an employment duty statement, delays implementation of the universal worker's compensation requirement to January 1, 2028, and makes additional policy reforms stemming from the board's sunset review.

EXISTING LAW:

1) Establishes, until January 1, 2025, the CSLB under the Department of Consumer Affairs (DCA) to implement and enforce the Contractors State License Law (License Law), which includes the licensing and regulation of contractors and home improvement salespersons. (Business and Professions Code (BPC) §§ 7000 et seq.)

2) Requires, until January 1, 2025, the board, by and with the approval of the director, to appoint a registrar of contractors, to be the executive officer and secretary of the board and to carry out all of the administrative duties of the board. (BPC § 7011)

3) Defines "person" to mean an individual, a firm, partnership, corporation, limited liability company, association or other organization, or any combination thereof. (BPC § 7025(b))

4) Defines "qualifying person," "qualifying individual," or "qualifier" to mean a person who qualifies for a license. (BPC § 7025(c))

5) Exempts from the License Law, an authorized representative of the United States government, the State of California, or any incorporated town, city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this state when the entity or its representative is acting within the scope of the entity's or representative's official capacity, except that the entity or its authorized representative may not contract with an unlicensed contractor for work that is required to be performed by a licensed contractor. (BPC § 7040)

6) Requires the awarding authority in public works contracts to determine the license classification necessary to bid and perform the project, as specified. (BPC § 7059(b))

7) Authorizes the CSLB to issue contractors' licenses to individual owners, partnerships, corporations, and limited liability companies. (BPC § 7065(b))

8) Mandates the board to require every applicant or licensee qualifying by the appearance of a qualifying individual to submit detailed information on the qualifying individual's duties and responsibilities for supervision and control of the applicant's construction operations, including, but not limited to, an employment duty statement prepared by the qualifier's employer, or principal. Failure of an applicant or licensee to provide this information constitutes a violation. (BPC §7068.1(d))

9) Specifies that the failure of a contractor licensed to do business as a corporation or limited liability company in this state to be registered and in good standing with the Secretary of State after notice from the registrar will result in the automatic suspension of the license by operation of law. (BPC § 7076.2(a))

10) Requires, until January 1, 2026, as a condition of licensure, that an applicant or licensee have on file at all times a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, unless that applicant or licensee has no employees and does not hold a C-8, C-20, C-22, C-39, or a D-49 license; the applicant or licensee is organized as a joint venture; or the license is inactive, as specified. (BPC § 7125(a-d))

11) Requires, beginning January 1, 2026, as a condition of licensure, that an applicant or licensee have on file at all times a current and valid Certificate of Workers' Compensation Insurance or Certification of Self-Insurance, unless the applicant or licensee is organized as a joint venture or the license is inactive, as specified. (BPC § 7125(a-c))

12) Sets the application fee for an asbestos certification examination and a hazardous substance removal or remedial action certification examination at $125 and authorizes both to be increased to $157. (BPC § 7137(a)(1)(F-G))

13) Sets the fee for rescheduling an examination for an applicant who has applied for an original license, additional classification, a change of responsible managing officer, responsible managing manager, responsible managing member, or responsible managing employee, or for an asbestos certification or hazardous substance removal certification, at $100 and authorizes it to be increased to $125. (BPC § 7137(a)(2)(A))

14) Sets the fee for scheduling or rescheduling an examination for a licensee who is required to take the examination as a condition of probation at $100 and authorizes it to be increased to $125. (BPC § 7137(a)(2)(B))

15) Authorizes the board to contract with licensed professionals, as specified, for the site investigation of consumer complaints, if funding is made available for that purpose. (BPC § 7019(a))

16) Authorizes the board to contract with other professionals whose skills or expertise are required to aid in the investigation of prosecution of a licensee, registrant, applicant, or those subject to licensure or registration by the board. (BPC § 7019(b))

17) Requires the board to determine the rate of reimbursement for individuals assisting with an investigation. (BPC § 7019(c))

THIS BILL:

1) Extends the sunset date for the board and its authority to appoint a registrar until January 1, 2029.

2) Authorizes contractors' licenses to be issued to a federally recognized tribe.

   a) Defines "federally recognized tribe" to mean a tribe located in this state and included on the list published in the Federal Register pursuant to the Federally Recognized Indian Tribe List Act of 1994, including an entity controlled by and established for the benefit of one or more tribes.

   b) Specifies that nothing in the License Law is intended to infringe upon or diminish the existing rights, privileges, and immunities of federally recognized tribes as set forth in federal, state, or tribal law, or the jurisdiction of those federally recognized tribes.

   c) Specifies that nothing in the License Law, whether express or implied, shall confer upon the board, registrar, or director any rights or authority to regulate any activity within the jurisdiction of a federally recognized tribe.

   d) Exempts a federally recognized tribe and a federally recognized tribe's business that is chartered under tribal or federal law from the requirement to be registered and in good standing with the Secretary of State.

   e) Updates the definition of "person" to include a federally recognized tribe.

3) Requires the awarding authority of a public works contract to determine the license classification necessary to bid and perform the project, *in accordance with the classifications prescribed by the License Law.* (Emphasis added to distinguish from existing law)

   a) Specifies that nothing shall be construed as authorizing an awarding authority to enact regulations relating to the qualifications necessary to engage in the business of contracting.

   b) Specifies that nothing shall deprive the registrar of the authority to investigate complaints and commence disciplinary proceedings for violations of the requirement determine the license classification necessary using existing classifications prescribed by law and regulations.

4) Deletes the requirement for an applicant or licensee to submit an employment duty statement for a qualifying individual.

5) Delays until January 1, 2028, the requirement for every licensee to have workers' compensation insurance.

6) Requires, by no later than January 1, 2027, the board to establish a process and procedure, which may include an audit, proof, or other means, to verify that an applicant or licensee without an employee or employees is eligible for exemption from the workers' compensation insurance requirement.

7) Deletes the fee for scheduling or rescheduling an examination, and instead requires the fee charged to take an examination conducted or administered by a public or private organization to be no greater than the actual cost of the administration of the examination, and be paid directly to the organization by the applicant.

8) Mandates the board to require a licensee that is subject to a public complaint requiring a professional or expert investigation or inspection and report to pay reasonable fees that are necessary to cover the costs of that investigation or inspection and report.

   a) Specifies that fees shall be fixed in an amount not more than the board's cost of contracting for the investigation or inspection and report, except that the minimum fee shall be $100 for each investigation or inspection and report and may be increased to not more than $1,000 for each investigation or inspection and report.

   b) Specifies that the fee shall only be assessed for an investigation or inspection and report that resulted in issuance of a letter of admonishment or a citation.

   c) Specifies that the full amount of the assessed fee shall be added to the fee for the licensee's active or inactive renewal and that a license shall not be renewed without payment of the renewal fee and all fees for the investigation or inspection and report.

9) Makes nonsubstantive and conforming changes.

FISCAL EFFECT:

According to the Senate Appropriations Committee:

- Unknown, likely significant revenue loss ranging into the millions of dollars annually beginning in 2028 as a result of contractors who may choose to not renew their license rather than obtain workers' compensation insurance (Contractors License Fund). This revenue loss may be lower to the extent that providing an exemption for workers' compensation insurance requirements facilitates more contractors to continue to remain licensed.

  The CSLB notes providing a delayed implementation date would help to address the immediate additional decline in the board's licensee population and corresponding renewal revenue loss. The CSLB does not anticipate additional licensing or enforcement workload by extending the delayed implementation date.

- Unknown workload impact to CSLB to establish the exemption verification process and procedure. Costs may include staff resources to promulgate regulations and conduct stakeholder outreach.

- The CSLB anticipates an annual revenue increase of approximately $250,000 in industry professional or expert investigation or inspection and report recovery fees.

COMMENTS:

Purpose. This bill is the sunset review vehicle for the CSLB, authored by the Senate Business, Professions, and Economic Development Committee. This bill extends the sunset date for the board and enacts technical changes, statutory improvements, and policy reforms in response to issues raised during the board's sunset review oversight process.

Background.

Sunset review. Each year, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development hold joint sunset review oversight hearings to review the licensing boards under the DCA. The DCA boards are responsible for protecting consumers and the public and regulating the professionals they license. The sunset review process provides an opportunity for the Legislature, DCA, boards, and stakeholders to discuss the performance of the boards and make recommendations for improvements.

Each board subject to review has an enacting statute that has a repeal date, which means each board requires an extension before the repeal date. This bill is one of the "sunset" bills that are intended to extend the repeal date of the boards undergoing sunset review, as well as include the recommendations from the sunset review oversight hearings. There are five sunset review bills authored by the Assembly Committee on Business and Professions and five sunset review bills authored by the Chair of the Senate Business, Professions and Economic Development Committee.

Contractors State License Board. The CSLB is responsible for the implementation and enforcement of the License Law, which governs the licensure, practice, and discipline of the construction industry in California. Any business or individual who constructs or alters, or offers to construct or alter, any building, highway, road, parking facility, railroad, excavation, or other structure in California must be licensed by the CSLB if the total cost of labor, materials, and all other items of one or more contracts on the project is $500 or more.

The CSLB issues licenses to business entities and sole proprietors. Each license requires a qualifying individual (a "qualifier") who directly supervises and controls construction work performed under the license. The qualifying individual must be at least 18 years old, have at least four years of specified work experience, undergo a criminal background check, and pass both a law and business exam as well as a trade-specific exam.[1] Additionally, licensed contractors are required to maintain a contractor's bond and workers' compensation insurance, and pay various fees.

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[1] Contractors State License Board. (n.d.) *Get Licensed to Build: A Guide to Becoming a California Licensed Contractor.*

The CSLB currently issues four license types: "A"' General Engineering Contractor license; "B" General Building Contractor license; "B-2" Residential Remodeling Contractor license; and "C" Specialty Contractor licenses of which there are 42 classifications. Each licensing classification (e.g. electrical, drywall, painting, plumbing, roofing, and fencing) specifies the type of contracting work permitted in that classification. Specific license holders are also eligible for Asbestos or Hazardous Substance Removal certifications issued by the CSLB. The board also regulates Home Improvement Salespersons (HIS). There are approximately 300,000 licensed contractors (active and inactive status licenses) and 30,000 registered HIS in California.[2]

The board's mission, as stated in its 2022-2024 Strategic Plan is as follows:

CSLB protects consumers by regulating the construction industry through policies that promote the health, safety, and general welfare of the public in matters relating to construction, including home improvement.

The board reports that it accomplishes its mission by doing all of the following:

- Ensuring that construction, including home improvement, is performed in a safe, competent, and professional manner;
- Licensing contractors and enforcing licensing laws;
- Requiring licensure for any person practicing or offering to practice construction contracting;
- Enforcing the laws, regulations, and standards governing construction contracting in a fair and uniform manner;
- Providing resolution to disputes that arise from construction activities; and
- Educating consumers so they can make informed choices.[3]

Current Related Legislation.

AB 2622 (J. Carillo) would authorize a person who does not have a contractor license to both advertise for and perform construction work or a work of improvement if the total cost of labor, materials, and all other items, is less than $1,000, subject to limitations. *AB 2622 is pending in the Senate Business, Professions, and Economic Development Committee.*

AB 3251 (Committee on Business and Professions) is the sunset bill for the Board of Accountancy. *AB 3251 is pending in the Senate Business, Professions, and Economic Development Committee.*

AB 3252 (Committee on Business and Professions) is the sunset bill for the Court Reporters Board. *AB 3252 is pending in the Senate Business, Professions, and Economic Development Committee.*

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[2] Contractors State License Board (2023, December) *Sunset Review Report* https://www.cslb.ca.gov/Resources/Reports/Sunset/CSLB_2023_Sunset_Report.pdf
[3] Contractors State License Board (n.d.) *2022-2024 Strategic Plan* https://www.cslb.ca.gov/Resources/reports/StrategicPlan/StrategicPlan_2022-24_ADA.pdf

AB 3253 (Committee on Business and Professions) is the sunset bill for the Board for Professional Engineers, Land Surveyors, and Geologists. *AB 3253 is pending in the Senate Business, Professions, and Economic Development Committee.*

AB 3254 (Committee on Business and Professions) is the sunset bill for the Cemetery and Funeral Bureau. *AB 3254 is pending in the Senate Business, Professions, and Economic Development Committee.*

AB 3255 (Committee on Business and Professions) is the sunset bill for the Board of Vocational Nursing and Psychiatric Technicians of the State of California. *AB 3255 is pending in the Senate Business, Professions, and Economic Development Committee.*

SB 1452 (Ashby) is the sunset bill for the California Architects Board and the Landscape Architects Technical Committee. *SB 1452 is pending in this committee.*

SB 1453 (Ashby) is the sunset bill for the Dental Board of California. *SB 1453 is pending in this committee.*

SB 1454 (Ashby) is the sunset bill for the Bureau of Security and Investigative Services. *SB 1453 is pending in this committee.*

SB 1071 (Dodd) would have delayed, until January 1, 2028, the requirement that all CSLB licensees be required to comply with workers' compensation requirements in law. *The contents of SB 1071 were incorporated into this bill and SB 1071 died in the Senate Appropriations Committee.*

Prior Related Legislation.

SB 216 (Dodd), Chapter 978, Statutes of 2022, required asbestos abatement contractors; concrete contractors; heating, ventilation, and air conditioning (HVAC) contractors; and tree service contractors to have workers' compensation insurance, regardless of whether they have employees, until January 1, 2026, at which time all contractors are required to have workers' compensation insurance regardless of whether they have employees.

AB 830 (Flora), Chapter 376, Statutes of 2021, states that a duty statement is required to establish the responsibilities of a qualifying individual on a contractors' license.

ARGUMENTS IN SUPPORT:

In support of this bill, the *CSLB* writes, "CSLB believes it is effectively executing its public protection mandate, by setting minimum standards for contractor licensure and removing bad actors from the marketplace when appropriate. The Board looks forward to continuing its work with the legislature and interested stakeholders to further its essential consumer protection work."

SUNSET ISSUES FOR CONSIDERATION: In preparation for the sunset hearings, committee staff publishes background papers that identify outstanding issues relating to the

entity being reviewed. The background papers are available on the Committee's website: https://abp.assembly.ca.gov/jointsunsethearings. While all of the issues identified in the background paper remain available for discussion, the following are currently being addressed in this bill or otherwise actively discussed:

1) *Issue #1: Expert Investigation and Inspection Costs.* The CSLB is responsible for enforcement of the License Law. As part of its enforcement arm, the CSLB actively responds to and conducts investigations of consumer complaints. The CSLB reports that a primary goal of the CSLB's Intake and Mediation Unit is to resolve as many complaints as practical without further referral to a field investigation. Investigations can increase costs for the CSLB, as greater resources are needed to conduct investigations. As noted by the CSLB, when a complaint is referred for a field investigation, the investigation is likely to result in a settlement, citation, letter of admonishment, or arbitration none of which provide a mechanism for cost recovery of the CSLB's work including staff-time or other resources necessary to investigate and resolve these complaints.

   According to the CSLB, to resolve a workmanship dispute, CSLB must evaluate the work that needs to be completed for a project to meet industry standards and any associated costs to complete that work. In order to make the proper assessment of workmanship and costs of a construction-related project, the CSLB must rely on the expertise of industry experts (IEs) and contracts with IEs as part of the investigation and enforcement process. Per BPC § 7019, if funding is made available, the CSLB may contract with other licensed professionals including architects, engineers and geologists as appropriate, for the site investigation of the consumer complaint. The registrar is responsible for determining the rate of reimbursement for the IE.

   As noted by the CSLB, it annually receives more than 13,000 consumer-filed complaints, the majority of which allege incomplete and/or defective work. For the complaints that allege workmanship issues, IE services are required to determine if the contracted work was completed and performed to minimum trade standards. While IEs provide valuable industry expertise in their evaluation of work as part of a complaint, the utilization of IEs is costly to the CSLB. As reported by the CSLB, costs can be around $800 for a single IE to inspect the project site of a complaint and prepare a report utilized by the CSLB to make an enforcement determination. Between FYs 2019/20 through 2022/23, the CSLB spent $2,061,446 on IEs, (one case may require more than one IE). Costs associated with the use of IEs also include travel to the job site. These costs can increase depending on the severity of the complaint and the type of work that must be inspected based on a complaint. Currently, the CSLB does not have the statutory authority to seek reimbursement for the costs associated with IEs during the enforcement process. However, in those cases with formal discipline, such as probation or suspension, an ALJ may require cost recovery as part of the formal discipline process but for less severe penalties such as citations, CSLB does not have cost recovery authority.

   As noted in the CSLB's 2023 Sunset Review Report, CSLB requests authority to obtain reimbursement for the cost of repeatedly inspecting poor workmanship or

incomplete work prior to, and in lieu of, the disciplinary stage of a complaint when appropriate. Providing authority to recover some IE costs will serve as a deterrent to contractors who do not respond timely to requests to correct work or who repeatedly rely on CSLB to incur the cost of an IE to tell them how to correct and complete their contracted work.

At least one other DCA agency has authority to charge for inspections in the enforcement process. The Bureau of Household Goods and Services (BHGS), under the Home Furnishings and Thermal Insulation Act (BPC §§ 19213 and 19213.1), is authorized to charge a fee when an inspection is needed to establish a violation. These sections do not require cost recovery through disciplinary action to invoke the fee. Unlike BHGS, which has staff to conduct and report on inspections, CSLB does not have in-house expertise to identify workmanship violations or the staff resources to conduct inspections at the rate complaints are received. Thus, CSLB must rely on experts in the field to conduct inspections. The CSLB notes in its 2023 Sunset Review Report that "To ensure CSLB can continue to 25 contract with IEs as the cost of services rises, authorization would be recommended to charge actual costs."

Staff Recommendation: The CSLB should advise the Committees on any anticipated cost savings associated with authority to seek the cost reimbursement of IEs.

Board Response: Anticipated cost savings could be around $250,000 a fiscal year, or about 40 to 60 percent of the board's annual IE costs.

This is based on the board's recommendation that this proposal be limited to IE cost reimbursement on investigations resulting only in letters of admonishment or citations because each resolution affords a right to appeal. The board estimates that approximately 40 to 60 percent of its total IE invoices each fiscal year result in a citation or letter of admonishment (though much more commonly a citation). The proposal is not needed for accusations, which afford the board formal cost recovery.

In addition to anticipated cost savings, the board is optimistic the proposal will result in fewer consumer complaints and serve as a deterrent to contractors that repeatedly rely on CSLB to contract with an IE to serve as quality control for their business rather than timely address their complaints with their customers.

Sunset Recommendation: This bill mandates that the board require a licensee that is subject to a public complaint requiring a professional or expert investigation or inspection to pay between $100 and $1,000 to cover the board's cost of contracting for the investigation or inspection and report.

2) *Issue #3: Workers' Compensation Insurance.* The License Law requires applicants and licensees, as a condition of licensure, to submit to the CSLB a valid Certificate of Workers' Compensation Insurance, or a valid Certification of Self-Insurance from the Department of Industrial Relations if they have any employees. As specified in BPC § 7125, if an applicant or licensee does not have employees and does not hold a (C-8) concrete license, (C-20) Warm-Air Heating, Ventilating and Air-Conditioning

license, (C-22) Asbestos Abatement contractor license, (D-49) Tree Service contractor license, or (C-39) roofing contractor license, they are able to provide a certification of exemption (meaning they have no employees) and are then not required to meet the workers' compensation insurance requirements as a condition of licensure, until January 1, 2026, when all applicants and licensees will be required to provide a valid Certificate of Workers Compensation Insurance for initial licensure and renewal.

To address concerns that some applicants or licensees were providing a certification of exemption in order to avoid obtaining the required workers' compensation insurance, SB 216 (Dodd), Chapter 978, Statues of 2022, expanded the license classifications required to have a Certificate of Workers' Compensation Insurance on file with the CSLB to include the (C-8 Concrete), (C-20 HVAC,) (C-22 Asbestos Abatement), (D-49 Tree Service) regardless if the contractor has employees. Prior to the passage of SB 216, only a C-39 Roofing contractor was required to have workers' compensation insurance regardless of whether or not they had any employees. Beginning January 1, 2026, all licensure classifications under the jurisdiction of the CSLB, regardless of whether or not they have employees, must obtain workers' compensation insurance. The requirements in SB 216 stemmed from work conducted by the CSLB in 2017, as it reviewed strategies to combat workers' compensation insurance avoidance. The CSLB reported that between January 2018 and March 2020, CSLB issued 500 stop work orders to licensed contractors on job sites for failure to secure workers' compensation and further made 342 legal actions against licensed contractors for workers' compensation insurance violations.

SB 216 provided a delayed implementation for all licensure classifications to meet the workers' compensation mandate. However, as noted in the CSLB's 2023 Sunset Review Report, there are concerns that the implementation of SB 216 will have a greater impact on CSLB's workload than anticipated and could potentially increase license-processing times. The CSLB is currently researching additional mechanisms to address the potential licensing challenges, including requesting new staff through the budget change proposal process.

In addition to concerns regarding implementation, there has been stakeholder feedback from contractors who will be required to obtain a certificate of workers compensation insurance even though they report to have no employees. California law requires that employers, including those in the construction industry, carry workers' compensation insurance, even if they have only one employee, including receptionists or other staff.

Staff Recommendation: The CSLB should advise the Committees if legislative changes are necessary to ensure effective implementation of SB 216. Additionally, the CSLB should advise the Committees if it foresees any workforce issues resulting from the implementation. Is the CSLB conducting any outreach or informational sessions to help applicants and licensees meet this new requirement or better understand what it means to have "employees"? Does the CSLB need more time to implement the requirements?

Board Response: If the 2026 mandate in SB 2016 took effect today, approximately 115,000 contractors would currently need a policy. CSLB may expect 10 percent of licensees to stop paying to maintain a license, resulting in a possible loss of $8 million to CSLB's fund that may impact enforcement operations. Staff also anticipates a significant increase in document processing with an increase in certificates and possibly applications to inactivate or cancel licenses. Staff will need to explore an entirely online certificate process or pursue a partnership with the Workers' Compensation Insurance Rating Bureau to assist with the tracking and registering of certificates.

The board's Chair assigned a two-board member advisory committee to connect with industry stakeholders on concerns raised by the legislature by potential SB 216 impacts. The stakeholder meeting was held on April 10, 2024. In addition to the two CSLB board members assigned, invitees included insurance regulators, attorneys, contractor association representatives, and smaller contractors who opposed the requirement. With minimal exception, industry attendees supported maintaining the "status quo" and the original policy of the bill to protect property owners, workers, and level the playing field for law-abiding contractors. Attendees did acknowledge the hardship that may come from very small businesses who truly never use a single worker from being forced to buy a policy and suggested the board could develop a new minimal-scope trade classification for licensed contractors who are not employers to perform maintenance work at a defined limit.

As to outreach, since October 2022, CSLB has issued industry bulletins and over 30,000 letters with education and resources about the requirement. The industry bulletins are on its website. CSLB will send letters and explore additional avenues for ensuring compliance with the 2026 WC requirements.

As to workforce issues, contractors have expressed concern about being forced to pay for a policy that does not benefit them. There has always been a concern with any requirement of this nature that a percentage of licentiate will "go underground" instead of paying for workers' compensation insurance.

Sunset Recommendation: This bill delays the universal workers' compensation insurance mandate to January 1, 2028. Additionally, in anticipation of a potential reversal of that policy in the future, this bill requires the board, by no later than January 1, 2027, to establish a process and procedure to verify that an applicant or licensee without a single employee is eligible for an exemption.

3) *Issue #7: Exam Fees.* In July of 2022, the CSLB entered into a master contract held by the DCA, joining several boards and bureaus whose license examinations are administered by a third-party vendor. Prior to CSLB joining that contract, it was responsible for scheduling, creating, developing and administering its own examinations. Because the CSLB was involved in all aspects of the examination process, any fees associated with examinations were set in statute and paid directly to the CSLB by the applicant. However, since the transition to PSI Exams, the existing

fee structure for applicant examinations may be outdated. Because of current specifications in statute, applicants are paying the CSLB for examination administration instead of the vendor PSI Exams.

Current law (BPC § 7137) specifies the fees applicants are required to pay the CSLB directly for examinations. CSLB then pays the vendor to administer the examination. The vendor in turn charges CSLB for each examination administered. This is a costly duplication of effort and paperwork for all parties involved.

Scheduling examinations and retakes requires significant staff resources to receive and process payments and then notify candidates and PSI Exams that they may schedule a second (or subsequent) examination, some as many as 12 times. Applicants could pay a lesser fee for rescheduling an exam or retaking after failing if the CSLB was not required to process examination reschedules. BPC § 7137(a)(2) specifies the fee to reschedule an examination is $100; however, PSI Exams invoices CSLB $45.65 for each standard examination. Therefore, the CSLB has recommended in its 2023 Sunset Review Report to amend the License Law to require candidates to pay examination fees directly to PSI Exams, instead of the CSLB, saving both time and money for the applicant and CSLB staff resources.

Staff Recommendation: The CSLB should advise the Committees on the statutory language necessary to make this change. The CSLB should advise the Committees on whether outsourcing the administration of the examinations has created efficiencies for the CSLB and/or applicants.

Board Response: Outsourcing examinations has resulted in several efficiencies by authorizing the CSLB applicant to work with PSI directly to schedule their examinations. Efficiencies include greatly expanding the hours and locations available for applicants to take examinations, as well as allowing applicants to choose their own examination date and schedule and cancel their own examinations. This has allowed CSLB to close its test centers and eliminate the need to staff test centers with proctors or licensing staff to schedule examinations. The final piece of these efficiencies is this proposal that would have the applicant pay the testing administrator the examination fee directly, which would be $45 or $90 depending on the number of examinations being scheduled.

However, the board has been clear this is an additional fee on applicants they are not currently paying ($90 or $45 depending on number of examinations taken).

When CSLB conducted a fee study in 2020 and fees were raised commensurate with the cost of current services, it was envisioned that PSI would administer examinations at some point in the future. So updated CSLB fees did not include examination “administration” costs.

Staff will tender for committee’s consideration draft legislative language to accomplish this.

Sunset Recommendation: This bill deletes exam fees in statute and requires applicants to pay the third-party exam vendor directly.

4) *Issue #8: Federally Recognized Tribes.* According to information in the CSLB's 2023 Sunset Review Report, the CSLB has found that current law does not provide a pathway for a federally recognized tribe, seeking to operate as a licensed contractor outside of its tribal boundaries, to obtain a contractor license. Unlike many other license types in California, which are issued to the individual, (i.e., a nurse, a veterinarian, a physician and surgeon, a funeral director, or a cosmetologist), a contractor license is issued to the "business." A CSLB license may be issued to a variety of business types including individual owners, partnerships, corporations, and limited liability companies. As noted in the CSLB's 2023 Sunset Review Report, several tribes have attempted to apply for a contractor license, but have been denied, as there is no authority in current law to issue a license to a tribe. The License Law authorizes licenses to be issued to individual sole proprietorships or entities that are registered with the Secretary of State.

   BPC § 7026, defines a contractor as, "…a person who undertakes to or offers to undertake to, or purports to have the capacity to undertake to, or submits a bid to, or does himself or herself or by or through others, construct, alter, repair, add to, subtract from, improve, …" The term "person" in the definition of a contractor is defined in BPC § 7025(b), as "an individual, a firm, partnership, corporation, limited liability company, association or other organization, or any combination thereof,"

   BPC § 7065(b) specifies that contractor licenses are to be issued to individual owners, partnerships, corporations, and limited liability companies. This creates a barrier for tribes, which are distinctly not any of the above entities. Further, BPC 7076.2 requires licensed contractors that do business as a corporation or limited liability company to register with the Secretary of State, and maintain good standing. Failure to do so results in suspension.

   A tribe may form a corporation as a tribally chartered corporation under tribal law, a state chartered corporation formed under state law, or a federally chartered corporation under Section 17 of the Indian Reorganization Act. However, the License Law only recognizes registration with the Secretary of State as a valid method of forming a corporation for purposes of CSLB licenses. As sovereign governments, tribes often pursue economic development initiatives by operating for-profit businesses. These businesses can, but are not required to, register their businesses with the Secretary of State as foreign corporations. Additionally, tribes cannot obtain a license as a sole proprietor, because a tribe has a right to self-governance that is not afforded to an individual. As a result, CSLB is unable to issue contractor licenses to tribal businesses. Federally recognized tribes do not need licenses to operate within their boundaries, unless their tribal laws designate such specific requirements.

   Other boards and bureaus share similar challenges associated with issuing licenses to tribal businesses including the Bureau of Automotive Repair, the Bureau of Security and Investigative Services and the Structural Pest Control Board. The CSLB

recommends in its 2023 Sunset Review Report to address this issue to expand business opportunities and reduce licensure barriers for federally recognized tribes conducting business operations outside of its tribal boundaries.

Staff Recommendation: The CSLB should advise the Committees on the appropriate legislative changes necessary to permit a tribe or tribally owned business to obtain a contractor license.

Board Response: Tribal governments sometimes seek to do business outside of federal or tribal land. As such, a contractor's license is required.

Existing law requires the CSLB to collect a social security number for a sole owner, a federal employer identification number for a partnership, and a registration number for a corporation or an LLC. However, Tribal organizations are set up as entities under Tribal Law as opposed to entities with a Secretary of State registration. Tribal organizations have expressed to the CSLB the preference the tribe be licensed rather than individual members obtaining a sole ownership or partnership license.

As a result, tribal entities have applied for contractor licensure several times and CSLB is unable to issue a license to the tribal entity. This is neither in the interests of consumer protection nor the legislature's policy of reducing barriers to licensure.

The CSLB has been advised that any such proposal may need to include a waiver of tribal sovereignty for imposing discipline on the license; the Department of Cannabis Control has similar provisions. This would ensure the CSLB could take disciplinary action for violations of the License Law as it would with any other licensee.

Staff will tender for committee's consideration draft legislative language to accomplish this.

Sunset Recommendation: This bill expressly authorizes the board to issue a license to a federally recognized tribe and makes conforming changes.

5) *Issue #12: Contractor Classifications for Public Works Projects.* BPC § 7059 provides the CSLB with authority to adopt rules and regulations pertaining to the license classifications, including establishing limits in the field and scope of the operations a licensed contractor may engage in based upon the classification of license held ("A" General Engineering, "B" General Building, "B-2" Residential Remodeling, and "C" Specialty). BPC § 7117.6 specifically prohibits working outside of the licensee's classification and subjects that contractor to enforcement actions by the CSLB.

The various classifications of contractor work in which licensees operate are consistent amongst all types of projects on which a contractor may engage. Regardless of the scope or size of a project, or who hires the licensed contractor (a private or public entity), a contractor must abide by all parameters of the License Law, including contracting for work within the licensee's classification. With respect

to larger public works projects, BPC § 7059 requires in public works contracts that the awarding authority determines the classification necessary to bid and perform the project, and prohibits the awarding authority from issuing a contract to a specialty contractor whose classification constitutes less than a majority of the project. Stakeholders have noted that current law may lead to confusion for awarding agencies when determining the appropriate classification as BPC § 7059 specifies the awarding authority determines the classification necessary without specifying that those classifications should be consistent with the classifications specified in the License Law.

Staff Recommendation: The CSLB should advise the Committees if statutory clarification would be beneficial to ensure that public works projects are only awarded to contractors with the appropriate license type.

Board Response: Statutory clarification would be beneficial as local agencies sometimes determine a classification for a public works project that is not the appropriate classification. Existing law allows a public agency to determine the contractor license classification necessary to bid and perform a public works project. CSLB believes this includes the responsibility to select the classification whose trade description provided by law that most appropriately fits the work to be bid on the project. However, existing law does not say this in the section of law about agencies selecting contractors should consider CSLB regulations, so clarification is appropriate.

This proposal will clarify existing law to simply state, in the section related to public works, that the awarding authority's determination is based on CSLB's authority to establish license classifications. This will provide clarity for awarding agencies and contractors when selecting classifications for which a contract is awarded and not impede CSLB's regulatory ability to ensure licensees are contracting within their authorized classification.

Sunset Recommendation: This bill clarifies that in public works contracts, the awarding authority must determine the necessary license classification using the classifications prescribed in the License Law and related regulations.

6) *Issue #17: Technical Clean-up.* Since the CSLB's last sunset review in 2019, the CSLB has sponsored or been impacted by numerous pieces of legislation which address all or parts of the CSLB's duties, oversight authority, licensing requirements, examination standards, among others. As a result, there may be a number of non-substantive and technical changes to the License Law to correct deficiencies or other inconsistencies in law. Because of numerous statutory changes and implementation delays, code sections can become confusing, contain provisions that are no longer applicable, make references to outdated report requirements, and cross-reference code sections that are no longer relevant. The board's sunset review is an appropriate time to review, recommend, and make necessary statutory changes.

Staff Recommendation: The CSLB should recommend cleanup or technical amendments to the Committees.

Board Response: Staff will tender for committee's consideration draft legislative language to accomplish this.

Sunset Recommendation: This bill makes various nonsubstantive and conforming changes.

Additionally, this bill, responds to a concern that was raised in the board's December 2023 sunset report in response to a question asking whether there are existing statutes that hinder the efficient and effective processing of applications and/or examinations, to which the board replied:

> BPC section 7068.1 was amended by AB 830 (Flora, Chapter 376, Statutes of 2021), to state a duty statement could be required to establish a qualifier's responsibility to exercise supervision and control over the applicant's projects. This amendment created confusion as to whether employers are required to submit a duty statement to demonstrate the qualifier's supervision and control over projects. Prior to this amendment, CSLB had existing authority to collect detailed information on the qualifying individual's duties and responsibilities, including a duty statement when warranted.
>
> The Licensing Division has fielded calls from applicants, new qualifiers, licensees, and construction law attorneys during renewal who believe section 7068.1 requires a duty statement as a condition of licensure. Additionally, the Licensing Division has received duty statements from licensees and applicants who believe a duty statement is required to renew their license. AB 830 created an additional, unnecessary workload and added a burden to employers who believe they must create a document to satisfy this requirement. The needed clarifying amendment is technical and is, therefore, included in CSLB's technical bill proposal.

This bill deletes the requirement that applicants and licensees submit an employment duty statement prepared by the qualifier's employer or principal and redundant language that failure to do so is a violation.

7) *Issue #18: Continued Regulation.* The safety and welfare of consumers persists under the presence of a strong licensing and regulatory structure to oversee the contractor profession. The CSLB's focus is consumer protection, to that end, has demonstrated its commitment to ensuring a robust contractor marketplace. Although, there are places where the CSLB can improve, including fiscal prudence, strengthening its licensing and enforcement objectives and those respective programmatic units, and identifying legislative priorities sooner, the CSLB should continue with a four-year extension so that the Legislature may once again review whether the issues and recommendations in this Background Paper have been addressed.

Staff Recommendation: Recommend that the licensing and regulation of contractors and HIS continue under the CSLB's regulatory authority in order to protect the interests and safety of the public. The CSLB should continue its work to help address the unlicensed economy through its enforcement operations and continue its administrative efforts to increase examinations in multiple languages. The CSLB should continue to develop staff management policies to ensure it has well-trained and cross-trained staff to alleviate pressures when disaster response is necessary. Further, the recommendation is for the CSLB to be reviewed by the appropriate policy committees of the Legislature once again in four years.

Board Response: The board agrees with this recommendation and thanks the committees for the opportunity to participate in the Sunset Review process.

Sunset Recommendation: This bill delays the sunset date for the board by four years to January 1, 2029.

REGISTERED SUPPORT:

Contractors State License Board
California Legislative Conference of Plumbing, Heating & Piping Industry
National Electrical Contractors Association
Northern California Allied Trades
Plumbing-Heating-Cooling Contractors Association of California
United Contractors
Wall and Ceiling Alliance
Western Electrical Contractors Association
Western Wall and Ceiling Contractors Association
Yurok Tribe

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1456 (Ashby) – As Amended June 19, 2024

NOTE: This bill is double referred and passed the Assembly Arts, Entertainment, Sports, and Tourism Committee as amended on June 18, 2024, by of a vote of 6-0-1.

SENATE VOTE: 37-0

SUBJECT: State Athletic Commission Act

SUMMARY: Extends the California State Athletic Commission by four years to January 1, 2025, authorizes the commission to establish a process for approving competitors who test positive for hepatitis C, increases the minimum purse to $200 and authorizes the commission to increase the amount by regulation, requires an onsite ambulance to transport a competitor to the hospital if the ringside physician orders it, and increases the boxing pension plan ticket assessment.

EXISTING LAW:

1) Regulates and licenses combat sports under the Boxing Act, also known as the State Athletic Commission Act. (Business and Professions Code (BPC) §§ 18600-18887)

2) Establishes the State Athletic Commission, until January 1, 2025, within the Department of Consumer Affairs (DCA) to administer and enforce the Boxing Act. (BPC § 18602)

3) Defines "club" and "promoter" synonymously to mean a corporation, partnership, association, individual, or other organization which conducts, holds, or gives a boxing or martial arts contest, match, or exhibition. (BPC § 18622)

4) Defines a professional or amateur boxer or martial arts fighter as one who engages in a boxing or martial arts contest and who possesses fundamental skills in their respective sport. (BPC § 18623)

5) Defines "contest" and "match" synonymously to mean professional and amateur boxing, kickboxing, and martial arts exhibitions, and mean a fight, prizefight, boxing contest, pugilistic contest, kickboxing contest, martial arts contest, or sparring match, between two or more persons, where full contact is used or intended that may result or is intended to result in physical harm to the opponent. (BPC § 18625(a))

6) Defines an amateur contest or match to include a contest or match where full contact is used, even if unintentionally. (BPC § 18625(b)(1))

7) Provides that an amateur contest or match does not include light contact karate, tae kwon do, judo, or any other light contact martial arts as approved by the commission and recognized by the International Olympic Committee as an Olympic sport. (BPC § 18625(b)(2))

8) Defines "martial arts" as any form of karate, kung fu, tae kwon do, kickboxing or any combination of full contact martial arts, including mixed martial arts, or self-defense conducted on a full contact basis where a weapon is not used. (BPC §18627(a))

9) Defines "kickboxing" as any form of boxing in which blows are delivered with the hand and any part of the leg below the hip, including the foot. (BPC § 18627(b))

10) Defines "full contact" as the use of physical force in a martial arts contest that may result or is intended to result in physical harm to the opponent, including any contact that does not meet the definition of light contact or noncontact. (BPC § 18627(c))

11) Defines "manager" as any person who does any of the following:

    a) By contract, agreement, or other arrangement with any person, undertakes or has undertaken to represent in any way the interest of any professional boxer, or martial arts fighter in procuring, or with respect to the arrangement or conduct of, any professional contest in which the boxer or fighter is to participate as a contestant; except that the term "manager" shall not be construed to mean any attorney licensed to practice in this state whose participation in these activities is restricted to representing the legal interests of a professional boxer or fighter as a client. Otherwise, an attorney shall be licensed as a manager in order to engage in any of the activities described in this section. (BPC § 18628(a))

    b) Directs or controls the professional boxing or martial arts activities of any professional boxer or martial arts fighter. (BPC § 18628(b))

    c) Receives or is entitled to receive more than 10 percent of the gross purse of any professional boxer or martial arts fighter for any services relating to such person's participation in a professional contest. (BPC § 18628(c))

    d) Is an officer, director, shareholder, or member of any corporation or organization which receives, or is entitled to receive more than 10% of the gross purse of any professional boxer or martial arts fighter for any services relating to the person's participation in a professional contest. (BPC § 18628(d))

12) Creates the Advisory Committee on Medical and Safety Standards within the commission, consisting of six licensed physicians and surgeons appointed by the commission, to study and recommend medical and safety standards for the conduct of boxing, wrestling, and martial arts contests. (BPC § 18645)

13) Requires any person applying for a license or the renewal of a license as a professional boxer or as a professional martial arts fighter to present documentary evidence satisfactory to CSAC that the applicant has been administered a clinical laboratory test to detect the presence of antibodies both to the human immunodeficiency virus (HIV) and to hepatitis C virus (HCV) and to detect the presence of the antigen of hepatitis B virus (HBV) within 30 days prior to the date of the application and that the results of all three tests are negative. (BPC § 18712(a))

14) Requires a promoter to contribute $.88 on every ticket, excluding a working complimentary ticket, up to a maximum contribution of $4,600 per show, to the boxing pension plan. (CCR tit. 4 § 403(a))

THIS BILL:

1) Extends the operation of the commission and its authority to hire an executive officer and specified inspectors by four years to January 1, 2029.

2) Specifies that the commission's Advisory Committee on Medical and Safety Standards must include at least one licensed physician and surgeon certified in neurology by a specialty board that is a member board of the American Board of Medical Specialties.

3) Requires the commission to establish, by regulation, a review and approval process for applicants or licensees who test positive for hepatitis C to compete.

4) Specifies that a licensee is entitled to a minimum purse of $200 per round and authorizes the commission to increase the minimum amount in regulation.

5) Requires the assigned onsite ambulance to transport a licensee to a trauma center without delay if a ringside physician orders immediate medical care.

6) Specifies that the method of financing the boxing pension plan shall include an assessment in the amount of $1 on each ticket sold for a professional boxing contest held in this state, up to a maximum contribution of $10,000 dollars.

7) Makes technical and conforming changes.

FISCAL EFFECT: According to the Senate Appropriations Committee, the 2024-25 Governor's Budget provides approximately $2.22 million (Athletic Commission Fund) and 10.7 positions to support the continued operation of the commission's licensing and enforcement activities.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author, "this bill is necessary to make changes to the California State Athletic Commission to improve oversight of the regulated professions under the jurisdiction of the Commission."

Background. Each year, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development hold joint sunset review oversight hearings to review the licensing boards under the Department of Consumer Affairs (DCA). The DCA boards are responsible for protecting consumers and the public and regulating the professionals they license. The sunset review process provides an opportunity for the Legislature, DCA, boards, and stakeholders to discuss the performance of the boards and make recommendations for improvements.

Each board subject to review has an enacting statute that has a repeal date, which means each board requires an extension before the repeal date. This bill is one of the "sunset" bills that are

intended to extend the repeal date of the boards undergoing sunset review, as well as include the recommendations from the sunset review oversight hearings.

This year, there are five sunset review bills authored by the Assembly Committee on Business and Professions and five sunset review bills authored by the Chair of the Senate Business, Professions and Economic Development Committee.

California State Athletic Commission. The commission is responsible for protecting the health and safety of its licensees: boxers, kickboxers, and other martial arts athletes. Concerned with athlete injuries and death, the public established the commission by initiative in 1924. The commission is responsible for implementation and enforcement of the Federal Muhammad Ali Boxing Reform Act and the state Boxing Act or State Athletic Commission Act. It provides direction, management, and control for professional and amateur boxing, professional and amateur kickboxing, and all forms and combinations of full contact martial arts contests, including mixed martial arts (MMA) and matches or exhibitions conducted, held or given in California. The commission has four main functions: licensing, enforcement, regulating events, and administering two "pension" funds, the Professional Boxers' Pension Fund and the Mixed Martial Arts Retirement Benefit Fund.

More specifically, the commission establishes requirements for licensure, issues and renews licenses, approves and regulates events, assigns ringside officials, investigates complaints received, and enforces applicable laws by issuing fines and suspending or revoking licenses. In 2023, the Commission supervised 150 events.

The current Commission mission statement, as stated in its 2019-2023 Strategic Plan, is as follows:

> The California State Athletic Commission is dedicated to the health, safety and welfare of participants in regulated competitive sporting events, through ethical and professional service.

The Commission is in the process of updating its Strategic Plan for 2024-2028.

Current Related Legislation. AB 3251 (Committee on Business and Professions), which is pending in the Senate, is the sunset bill for the California Board of Accountancy.

AB 3252 (Committee on Business and Professions), which is pending in the Senate, is the sunset bill for the Court Reporters Board.

AB 3253 (Committee on Business and Professions), which is pending in the Senate, is the sunset bill for the Board for Professional Engineers, Land Surveyors, and Geologists.

AB 3254 (Committee on Business and Professions), which is pending in the Senate, is the sunset bill for the Cemetery and Funeral Bureau.

AB 3255 (Committee on Business and Professions), which is pending in the Senate, is the sunset bill for the Board of Vocational Nursing and Psychiatric Technicians.

SB 1452 (Ashby), which is pending in this committee, is the sunset bill for the California Architects Board and the Landscape Architects Technical Committee.

SB 1453 (Ashby), which is pending in this committee, is the sunset bill for the Dental Board of California.

SB 1454 (Ashby), which is pending in this committee, is the sunset bill for the Bureau of Security and Investigative Services.

SB 1455 (Ashby), which is pending in this committee, is the sunset bill for the Contractors' State License Board.

Prior Related Legislation. AB 1136 (Haney), Chapter 466, Statutes of 2023, established the Mixed Martial Arts Retirement Benefit Fund.

AB 1703 (Wendy Carrillo), Chapter 591, Statutes of 2023, increases the cap on the 5% fee on gate admissions that the commission may collect from a combative sports promotion from $100,000 to $200,000.

AB 1523 (Low), Chapter 464, Statutes of 2019, extended the operation of the CSAC until January 1, 2024, and authorizes the Commission to hire a chief athletic inspector and assistant chief athletic inspector.

SB 439 (Hill), Chapter 316, Statutes of 2015, extended the operation of the Commission until January 1, 2020, and made changes to the laws governing the Commission's operations and the Commission's oversight of professional and amateur combat sports, as specified, held or given in California.

SB 309 (Lieu), Chapter 370, Statutes of 2013, extended the operation of the Commission until 2016.

AB 1186 (Bonilla), Chapter 506, Statutes of 2013, clarified that the Commission is authorized to regulate all forms of full contact martial arts contests involving participants 18 years of age or younger, including all forms and combinations of forms of full contact martial arts contests deemed by the Commission to be similar, and that an amateur contest includes a contest where full contact is used, even if unintentionally.

AB 2100 (Alejo) of 2012, which was held in the Assembly Appropriations Committee, would have required that the Commission, in consultation with the Association of Boxing Commissions, to establish and enforce a professional code of conduct, as specified, and that persons seeking payment as promoters must make specified disclosures to the Commission prior to being compensated.

SB 543 (Price), Chapter 448, Statutes of 2011, extended the Commission sunset date for 2 years, from January 1, 2012 to January 1, 2014.

SB 294 (Negrete McLeod), Chapter 695, Statutes of 2010, extended the Commission sunset date for one year, from January 1, 2011 to January 1, 2012.

SB 963 (Ridley-Thomas), Statutes of 2008, extended the Commission sunset date from July 1, 2009 to January 1, 2011.

SB 247 (Perata), Chapter 465, Statutes of 2006, reestablished the Commission on January 1, 2007, as an independent board through July 1, 2009.

ARGUMENTS IN SUPPORT:

The California Orthopaedic Association writes in support of adding "a neurologist to the State Athletic Commission Advisory Committee of Medical and Safety Standards… Since these sports do have increased risk of head and neurological damage, we think having a designated slot for a neurologist is appropriate and support the legislation."

ARGUMENTS IN OPPOSITION:

None on file

SUNSET ISSUES FOR CONSIDERATION:

In preparation for the sunset hearings, committee staff publishes background papers that identify outstanding issues relating to the entity being reviewed. The background papers are available on the Committee's website: https://abp.assembly.ca.gov/jointsunsethearings. While all of the issues identified in the background paper remain available for discussion, the following are currently being addressed in the amendments to this bill or otherwise actively discussed:

1) *Issue #2: Retired Fighters*. The commission administers a Boxers' Pension Plan, which was originally established in 1982 aimed at providing monetary resources to retired professional boxers. Current law, specifies that, if the fee on admissions for a boxing contest exceeds $70,000, the amount in excess of $70,000 shall be paid one-half to the commission and one-half to the Boxers' Pension Fund. The law further requires any Boxers' Pension Plan established by the commission to be actuarially sound. The law specifies that the Boxers' Pension Fund is specifically not a retirement fund.

   Commission regulations require a promoter to contribute $.88 on every ticket, excluding a working complimentary ticket, up to a maximum contribution of $4,600 per show, to the Boxers' Pension Fund. Regulations further specify that a participating boxer shall become vested in the amount credited to the participating boxer's regular account when they have fought in at least ten scheduled rounds per calendar year during each of four calendar years without an intervening break in service, and have fought in at least 75 scheduled rounds without a break in service.

   In 2005, the Bureau of State Audits (BSA) found that the fund was poorly administered and very few boxers have or would receive benefits from the Boxers' Pension Fund. The Auditor noted that from 2001-2004, total benefits paid to boxers were $36,000, while administrative costs were six times greater. Further, the Auditor also noted that, as of 2003, only 14 percent of licensed boxers were vested and their accounts were very low. On December 31, 2005, only 43 participants were eligible for retirement benefits totaling just $430,000. BSA recommended reducing vesting requirements and increasing the gate fees used to fund the

plan. According to a report issued by BSA in January 2011, these recommendations from 2005 remained unresolved. The commission responded to BSA's recommendation by stating that it would conduct a study on the impact of reducing vesting requirements and pursue changes in statute or regulation or an increase in gate fees.

During the 2013 sunset review oversight of the commission, questions were raised as to whether a lump sum payment was a proper benefit to a fighter, or whether there were potentially more appropriate means by which to assist these athletes like providing health insurance benefits, connecting fighters to coverage for medical services, or directing retired boxers to medical coverage options like Covered California so they are able to receive ongoing, consistent medical treatment that is not likely covered by a one-time payment. During the 2019 sunset review oversight of the commission, it noted that it had increased Pension Plan distributions to qualified retired boxers, despite the obstacles in locating potential claimants. At the time, there were almost 300 covered boxers and almost $3.8 million in fund assets, with 11 boxers paid just over $176,000 in 2018. The commission advised that establishing a MMA Pension Plan was outlined in its Strategic Plan, but questions were raised at the time about how a MMA Pension Plan would be structured, given its specificity for boxers, as well as the general challenges associated with underfunded pensions.

A May 2023 Los Angeles Times article, "California created the nation's only pension for aging boxers. But it's failing many of them", found that the pension plan does not have enough money to pay all unclaimed pensions without reducing the amount of money received by fighters who become eligible in future years - with just $294,000 set aside for the $2.1 million owed to boxers who haven't been paid. Many boxers have not claimed them because, in many cases according to the article, they were unaware that they were even eligible for a pension. While the commission has made recent efforts to advertise this benefit to boxers, the article states that the commission has waited until a boxer turns 50 before attempting to contact them for the first time, and by then, the vast majority of addresses are no longer current. The article found that approximately 200 boxers could have claimed a pension last year, but only 12 of them did so. The article also noted that the commission's contracted pension administrator, Benefit Resources, has raised alarms in the past about the impact of too many boxers coming forward with late claims in the same year which creates uncertainty and instability in the fund.

A subsequent Los Angeles Times article in March 2024, "After losing a world champion boxer's pension records, California finally admits error", highlighted action taken by the commission at its March 4, 2024 meeting to pay a retired boxer a lump sum payment after previously denying payment, only to learn that the fighter's pension records had somehow been lost.

In 2023, the commission sponsored AB 1136 (Carrillo), Chapter 466, Statutes of 2023, to establish a MMA Retirement Benefit Fund. The MMA Fund is financed by any of the following:

- An assessment in the amount of one dollar ($1) on each ticket sold for a professional MMA contest held in the state. The amount may be raised to up to $2 through regulations.

- Revenue through the sale of special interest license plates and other commission-branded items, including, but not limited to, sport paraphernalia and souvenirs.

- Contributions by martial artists, managers, promoters, or any one or more of these persons, in an amount sufficient to finance the MMA Fund.

The MMA Fund fighter eligibility and vesting requirements are outlined in the State Act, rather than regulations, as the Boxers' Pension Fund administration is outlined. The commission has requested a number of changes related to these programs, including changes aimed at increasing revenue for the Boxers' Pension Fund.

Staff Recommendation: The commission should advise the committees whether there are better means by which to assist retired boxers lead a healthy life after years of participation in the sport and ensure that they receive important medical care. The commission should provide an update about the ability for the commission's current structure and revenues to support this important work. The commission should provide an update on formal, ongoing outreach efforts to boxers and future efforts to MMA athletes. The commission should provide an update on necessary statutory changes to the State Act related to these funds and programmatic efforts. The committees should evaluate whether the current statute and regulations meets the intended purpose of assisting retired athletes.

Commission Response: The Commission plans to engage and offer financial literacy education to athletes in addition to not in lieu of the financial assistance offered by the pension/benefit funds. The Commissions revenues fluctuate but providing pension/benefit funds remains a top priority.

Sunset Recommendation: None at this time—discussions are still ongoing.

2) *Issue #3: Codification of Regulations and State Act Modernization*. The State Act was written decades ago and, while updates have been made over the years, structural changes to ensure efficient Commission operations may be needed. Additionally, much of the athlete safety and provisions governing events, contracts, and fighter well-being are outlined in regulations rather than in the State Act. The Commission has historically been hindered in updating its regulations quickly due to delays in the process and general timeframes that may not allow the Commission to make appropriate changes in a timely manner.

Staff Recommendation. The Commission should work with the Committees to amend the State Act as necessary in order to modernize the law and further promote the clear and effective regulation of events, prioritizing the safety and welfare of athlete licensees.

Commission Response: Codification of regulations would be helpful to the Commission, especially with pending regulations. In addition, Hepatitis C treatments are now different than when the Boxing Act was last amended on this statute, and an amendment recognizing new treatments would be welcome.

Sunset Recommendation: Authorize the commission to develop a process for approving fighters who may have hepatitis C antibodies but are otherwise contagious and include the following issues:

a) *Minimum Purse.* In response to concerns that athletes were not provided a minimum purse for fighting and exploitation by promoters who may pay them as little as $1.00 instead of an industry minimum, the commission promulgated regulations to set a minimum purse amount of $100 per round. The commission believes this amount should be updated to $200 and included in the State Act.

   Recommendations: Increase the minimum purse to $200 and authorize the Commission to increase that amount in regulations.

b) *Ambulance Transport*. Commission regulations require an ambulance staffed by at least one paramedic is available at the site during and after an event and that it remains on site until released by a ringside physician. Commission regulations require an ambulance at events, but concerns have been raised that fighter safety is significantly impacted when paramedics do not transport injured fighters in a timely manner to receive critical care. It would be helpful for the committees to understand what discussions the commission has held with stakeholders to ensure that fighter safety is prioritized and that appropriate judgment is made swiftly to protect these individuals. It would be helpful for the committees to understand what steps need to be taken so that injured fighters are transported from events as necessary.

   Recommendations: Require the onsite ambulance to take fighters to the hospital if the ringside physician orders it.

3) *Issue #5: Fluidity in Revenues*. The commission is not able to adequately predict revenues over time in the manner that other licensing boards do, given the fluid nature of the commission licensing revenues and fluctuations in the sports that may dictate when events do or do not take place. The budget process requires that estimates be made many months in advance in order for the commission's spending authority to be approved. The commission faces a completely different fund situation depending on events that are held in California.

   The issue of the commission's staffing has continued to be of concern during past sunset review oversight discussions, audits, and budget discussions about appropriate expenditures. Athletic inspectors in particular perform a critical function in overseeing the safety of events and well-being of licensees at events. Inspectors facilitate key aspects of an event, including all of the pre-bout activities like weigh-ins and proper hand wrapping and ensuring only authorized individuals are in locker rooms. Inspectors also must be present in order for fighters to get paid after a fight. If too few athletic inspectors are assigned to an event, key fighter safety protections may be overlooked.

   Due to the COVID-19 pandemic and issuance of a statewide directive to prohibit all major gatherings, all major sporting events were cancelled, which in turn impacted the commission's ability to generate revenue mid-way through fiscal year 2019-20 and throughout 2020-21. During this time, the Commission's revenue dropped to approximately $1.8 million in 2019-20 and to only $894,000 in 2020-21. During this time, the commission

relied on its fund reserves and various cost saving measures to support its operations during the height of the pandemic. Between fiscal years 2019-20 and 2020-21, the commission's fund reserves sharply dropped from $1.6 million (12.1 months in reserve) in 2019-20 to $757,000 (4.0 months in reserve) by the end of 2020-21.

In 2021-22, major combat sporting events were allowed to resume in California and the commission generated roughly $1.9 million in revenues, a significant improvement from the prior year. However, the commission required additional spending authority of $340,000 to pay the Office of the Attorney General for unanticipated litigation costs which further depleted the commission's fund reserves to $343,000 (1.7 months in reserve) by the end of the fiscal year. Based on expenditure and revenue projections, the commission is anticipated to generate $1.9 million in revenues and expend approximately $2.4 million, which will cause a fund insolvency of $79,000.

The commission sponsored AB 1703 (Carrillo), Chapter 591, Statutes of 2023, which increased the cap on the amount of admissions revenue that promoters must report from $2,000,000 to $4,000, and increased the cap on the admissions revenue fee from $100,000 to $200,000. The commission believes this will help to ensure that it remains solvent, however, with rising costs of doing business for state agencies, increased administrative workload at the commission level related to a new MMA Fund and a long overdue business modernization project, as well as other important initiatives the commission is undertaking (such as working to provide financial literacy information to fighters), it would be helpful for the committees to understand what additional resources, revenues, and adjustments the commission needs to continue its critical work.

Staff Recommendation: The commission should explain whether it can effectively protect fighters and oversee events with its current spending authority and other staffing needs it has to improve operations and promote fighter safety. The commission should advise the committees if its inability to adjust expenditures on an ongoing basis, as well as budget process delays in changing its spending authority on a regular basis, impede its health and safety efforts.

Commission Response: The Commission requests a continuous appropriation. As the Legislature has noted multiple times, the Commission has very unpredictable revenue.

The expenditures are also unpredictable in regard to events. The stable expenditures of office staff, rent, and Pro Rata are only about half of the total expenditures. The remaining expenditures fluctuates based on the industry. If the Commission has a high-volume year, expenditures (as well as revenue) will be higher. Budgeting for the sports entertainment industry among the Commissions 43 licensed promoters is an educated guess at best. A continuous appropriation would be prudent and helpful.

Sunset Recommendation: None at this time—discussions are ongoing.

4) *Issue #8: Technical Changes*. There are instances in the State Act where technical clarifications may improve commission operations and application of the statutes governing the commission's work.

Staff Recommendation: The committees may wish to amend the Act to include technical clarifications.

Commission Response: The Commission agrees with Technical Changes.

Sunset Recommendation: Include technical changes.

5) *Issue #9: Continued Regulation by the Commission*. California's professional and amateur boxers, kickboxers and mixed martial arts athletes are better served with appropriate oversight by a commission, and the state benefits from holding these events in California. If the commission goes away, large scale events held in communities throughout the state will not happen, taking with them the economic windfall to local businesses. Most significantly, fighting will still take place, in an underground, unregulated environment that is not conducive to protecting athletes and promoting career opportunities and abilities of many young people. The most important work of the commission happens on the ground level, managing and overseeing events and promoting the well-being of the competitors participating in combat sporting events in California. While the commission has struggled with certain functions over the years like ensuring retired fighters receive benefits, the current membership and management have shown a commitment to improve the commission's overall efficiency and effectiveness and are working cooperatively with the Legislature and the committees to bring about necessary changes.

   Staff Recommendation: The commission should be continued, and reviewed again on a future date to be determined.

   Sunset Recommendation: Extend the commission by four years.

REGISTERED SUPPORT:

California Orthopaedic Association

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1498 (Ashby) – As Amended June 17, 2024

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

SENATE VOTE: 38-0

SUBJECT: Cannabis and industrial hemp: advertising: civil action.

SUMMARY: Authorizes state and local prosecutors to bring an action for injunctive relief and civil penalties against individuals engaged in commercial cannabis activity for violations of laws intended to restrict the advertising and marketing of cannabis products to minors by licensed cannabis businesses, and extends those laws to apply to individuals operating without a license.

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 Department of Cannabis Control (DCC) within the Business, Consumer Services, and Housing Agency for purposes of administering MAUCRSA. (BPC § 26010)

3) Establishes grounds for disciplinary action against cannabis licensees, including failures to comply with state requirements as well as local laws and ordinances. (BPC § 26030)

4) Authorizes the DCC to issue a citation to a licensee or unlicensed person for violating any provision of MAUCRSA, which may include an order of abatement or an administrative fine of up to $5,000 per day of violation by licensees and up to $30,000 per day of violation by unlicensed persons. (BPC § 26031.5)

5) Prohibits a person or entity from engaging in commercial cannabis activity without a state license issued by the DCC. (BPC § 26037.5)

6) Authorizes the Attorney General or a city or county counsel or city prosecutor to bring an action against persons engaged in unlicensed commercial cannabis activity for civil penalties of up to three times the amount of the license fee per day of violation. (BPC § 26038)

7) Authorizes a cannabis licensee to bring an action in superior court against a person engaging in commercial cannabis activity without a license. (BPC § 26038.1)

8) Prohibits cannabis and cannabis product packages and labels from being made to be attractive to children. (BPC § 26120)

9) Requires the DCC to set packaging and labeling standards for manufactured cannabis products, including a requirement that products not be designed to be appealing to children or easily confused with commercially sold candy or other non-cannabis foods. (BPC § 26130)

10) Defines "advertisement" as any written or verbal statement, illustration, or depiction which is calculated to induce sales of cannabis or cannabis products, with specified examples and exceptions. (BPC § 26150(b))

11) Defines "marketing" as any act or process of promoting or selling cannabis or cannabis products, including development of products specifically designed to appeal to certain demographics. (BPC § 26150(e))

12) Requires that all advertisements identify the license number of the licensee responsible for its content, requires any advertising or marketing placed in broadcast, cable, radio, print, and digital communications to only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, and requires any direct advertising or marketing to verify that the recipient is 21 years of age or older. (BPC § 26151)

13) Prohibits a cannabis licensee from doing any of the following:

    a) Advertising or marketing in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

    b) Publishing or disseminating advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on its labeling.

    c) Publishing or disseminating advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

    d) Advertising or marketing on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

    e) Advertising or marketing cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

    f) Publishing or disseminating advertising or marketing that is attractive to children.

    g) Advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

    h) Publishing or disseminating advertising or marketing while the licensee's license is suspended.

    (BPC § 26152)

14) Requires the advertisement and marketing of an integrated cannabis vaporizer to provide specified statements about how to correctly dispose of those products. (BPC § 26152.1)

15) Prohibits a cannabis licensee from publishing or disseminating advertising or marketing containing any health-related statement that is untrue or tends to create a misleading impression as to the effects on health of cannabis consumption. (BPC § 26154)

16) Exempts from the prohibition against advertising within 1,000 feet of a day care, school, playground, or youth center the placement of advertising signs inside a licensed premises that are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products. (BPC § 26155)

17) Specifies that MAUCRSA does not supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances regulating commercial cannabis licensees. (BPC § 26200)

18) 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. (Government Code (GOV) § 53069.4)

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

20) Defines "industrial hemp" as a crop that is limited to types of the plant Cannabis sativa L. having no more than three-tenths of 1 percent THC contained in the dried flowering tops, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin produced therefrom. (Health and Safety Code (HSC) § 11018.5(a))

21) Exempts industrial hemp from MAUCRSA. (HSC § 11018.5(b))

22) Establishes a regulatory framework for industrial hemp under the Sherman Food, Drug, and Cosmetic Law administered by the California Department of Public Health, under which manufacturers of products containing industrial hemp are required to obtain a process food registration and comply with good manufacturing practices. (HSC §§ 111920 *et seq.*)

23) Prohibits industrial hemp products from being labeled or advertised with any health-related statement that is untrue in any particular manner as to the health effects of consuming products containing industrial hemp. (HSC § 110407)

24) Prohibits hemp manufacturers from directly targeting advertising or marketing to children or to persons who are pregnant or breastfeeding. (HSC § 111926)

25) Requires industrial hemp products to meet specified packaging and labeling requirements. (HSC § 111926.3)

26) Prohibits inhalable hemp products from being sold to consumers under 21 years of age. (HSC § 111929)

THIS BILL:

1) Extends the application of existing prohibitions against specified methods and forms of advertising or marketing by cannabis licensees to also apply to persons engaged in commercial cannabis activity without a license.

2) Adds similar prohibitions to the advertising or marketing of industrial hemp products.

3) Authorizes the Attorney General, a district attorney, a city attorney, or a county counsel to bring and maintain an action to redress a violation of the following existing prohibitions:

    a) Advertising or marketing on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

    b) Advertising or marketing cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

    c) Publishing or disseminating advertising or marketing that is attractive to children.

    d) Advertising or marketing cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

4) Provides that the Attorney General, a district attorney, a city attorney, or a county counsel who prevails in an action under the bill shall be awarded injunctive relief.

5) Additionally provides that the Attorney General, a district attorney, a city attorney, or a county counsel may also be awarded either or both of the following:

    a) Reasonable attorney's fees and costs.

    b) Civil penalties of not more than $5,000 per violation by a licensed cannabis business and not more than $30,000 per violation by an unlicensed cannabis business or a business engaged in the sale of products that contain industrial hemp.

6) Provides that the remedies provided under the bill are in addition to any other remedies otherwise provided in any other law and that the bill does not prohibit subsequent actions to redress recurring or continuing violations pursuant to other laws.

7) Requires the court to consider specified factors when determining whether to award reasonable attorney's fees and costs and civil penalties, and in assessing the amount of any civil penalty, including the gravity of the violation, the defendant's good faith or lack thereof, and the defendant's history of previous violations.

FISCAL EFFECT: According to the Senate Committee on Appropriations, unknown, potentially significant workload cost pressures to the courts to the extent the bill results in increased actions brought against cannabis licensees engaged in prohibited cannabis advertising and marketing activities; no significant fiscal impact anticipated for the DCC or the Attorney General.

COMMENTS:

Purpose. This bill is sponsored by the author, who is Chair of the Senate Committee on Business, Professions, and Economic Development. According to the author:

> "SB 1498 is a bill that simply seeks to keep our children safe, and ensure Prop 64 is implemented as intended. Current law specifies rules that licensees must adhere to for the advertising of cannabis, including prohibiting advertising that is attractive to children. While illegal, some cannabis operators choose to willfully violate these prohibitions by continuing to advertise content that's attractive to children. This leaves the promise of Proposition 64, to protect youth from exposure to cannabis advertising that is attractive to children, unfulfilled. SB 1498 allows enforcement from the Attorney General, a District Attorney, or a City Attorney when a cannabis licensee is in violation of these cannabis advertising laws protecting youth."

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 Senate Bill 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 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, or 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, Senate Bill 94 (Committee on Budget and Fiscal Review) was passed by to reconcile the previously 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—formally referred to 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 California Department of Finance released trailer bill language to create a new department with centralized authority for cannabis licensing and enforcement activities. The DCC was created through a consolidation of the three prior licensing authorities' cannabis programs. As of July 1, 2021, the DCC 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.

Advertising and Marketing of Cannabis Products. Prior to the AUMA being passed by the voters, arguments both for and against the initiative frequently focused on a debate over whether Proposition 64 would adequately protect children from exposure to the cannabis industry. In the official text of Proposition 64, the purpose and intent of the initiative was stated to include an intention to "prohibit the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present." Proposition 64 included a number of specified safeguards for minors, including:

- Prohibiting consumption of cannabis outside a residence within 1,000 feet of a school, day care center, or youth center while children are present.
- Requiring child-resistant packaging for cannabis products.
- Prohibiting packages and labels from being made to be attractive to children.
- Providing that cannabis products shall not be designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.
- Prohibiting cannabis businesses from being located within 600 feet of schools and other areas where children congregate.
- Authorizing a licensing authority to deny a license if there is an unreasonable risk of minors being exposed to cannabis or cannabis products.
- Expressly prohibiting businesses selling recreational cannabis to minors under 21 or employing minors under 21.

The AUMA further required that "any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee."

Additionally, Proposition 64 included a prohibition against advertisers publishing or disseminating "advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption." This language was heavily simplified when MCRSA and the AUMA were reconciled through the enactment of SB 94. Under MAUCRSA, licensees are instead prohibited more generally from publishing or disseminating "advertising or marketing that is attractive to children." However, similar language was incorporated into regulations previously promulgated by the Bureau of Cannabis Control in rules governing advertisements placed in broadcast, cable, radio, print, and digital communications.

MAUCRSA currently places a series of prohibitions on specified forms of advertising and marketing by individuals and entities licensed by the DCC. Cannabis licensees may not do any of the following:

- Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific, or technical matter, tends to create a misleading impression.

- Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof.

- Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the cannabis originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement.

- Advertise or market on a billboard or similar advertising device located on an Interstate Highway or on a State Highway which crosses the California border.

- Advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume cannabis or cannabis products.

- Publish or disseminate advertising or marketing that is attractive to children.

- Advertise or market cannabis or cannabis products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 to 12, inclusive, playground, or youth center.

- Publish or disseminate advertising or marketing while the licensee's license is suspended.

Following the consolidation of the state's cannabis regulators into the DCC in 2021, new regulations were proposed to simplify and streamline rules relating to licensed cannabis activity. These regulations scaled down the number of examples of what types of advertising would be deemed "attractive to children." The specific examples of "toys, inflatables, movie characters, [and] cartoon characters" were replaced with a prohibition against cartoons, depictions of minors, or "any likeness to images, characters, or phrases that are popularly used to advertise to children."

The revised regulations also incorporated other prohibition language previously applied only to labeling requirements into the more general advertising restrictions. This includes prohibitions against products containing any imitation of candy packaging or labeling or using the term "candy" or "candies" or variants in spelling such as "kandy" or "kandeez." The regulations also prohibit the advertising of free cannabis goods or accessories.

While these prohibitions are contained in provisions of the DCC's regulations relating to advertising and marketing, these prohibitions apply to the packaging and labeling of cannabis goods as well. MAUCRSA requires the DCC to promulgate regulations to set standards for the manufacturing, packaging, and labeling of all manufactured cannabis products. The DCC's regulations specifically cross-reference the advertising content restrictions in language prohibiting cannabis goods labeling from containing "content that is, or is designed to be, attractive to individuals under the age of 21." The DCC's regulations further prohibit the selling of "any cannabis product that the Department determines, on a case-by-case basis," to be either "attractive to children" based on the above criteria, or "easily confused with commercially available foods that do not contain cannabis."

The DCC's regulations include a number of additional provisions relating to cannabis advertising. Advertisements placed in broadcast, cable, radio, print, and digital communications may only be displayed after a licensee has obtained reliable up-to-date audience composition data demonstrating that at least 71.6 percent of the audience viewing the advertising or marketing is reasonably expected to be 21 years of age or older. These advertisements also may not depict images of minors, objects likely to be appealing to minors, or statements regarding free cannabis goods or giveaways.

The DCC's regulations also contain more specific requirements for outdoor advertising of cannabis, including billboards. The DCC requires that all outdoor signs must be affixed to a building or permanent structure. Prior cannabis regulations narrowed the AUMA's prohibition against advertising on a billboard located on a highway to prohibit only advertisements "within a 15-mile radius of the California border." On January 11, 2021, the San Luis Obispo Superior Court entered a summary judgement that this regulation was "clearly inconsistent with the Advertising Placement Statute, expanding the scope of permissible advertising to most of California's State and Interstate Highway system, in direct contravention of the statute." In response, the DCC issued a notice to licensees, informing them that "to comply with the law and regulations, licensees may not place new advertising or marketing on any interstate highway or state highway that crosses the California border."

The author of this bill intends to enhance the state's enforcement of the advertising and marketing restrictions under MAUCRSA by expressly authorizing the Attorney General or a specified local prosecutor to bring an action for injunctive relief and civil penalties for violations of the prohibitions aimed specifically and preventing the exposure of children to cannabis advertisements. While the DCC can already take action against licensees for such violations, extending enforcement authority to other prosecuting agencies is intended to increase the likelihood that these laws will be adequately enforced. Because the bill would allow for these public prosecutors to be reimbursed for their reasonable attorney's fees and costs in addition to injunctive relief and the collection of civil penalties, there would arguably be a strong incentive for actions to be brought that does not currently exist with the DCC as the only specified enforcement entity.

Enforcement Against Unlicensed Activity. A report published by the Reason Foundation estimates that as much as two-thirds of cannabis sales in California take place on the illicit market. This is consistent with widespread consensus that illicit cannabis continues to proliferate notwithstanding the enactment of MAUCRSA. In addition to unlicensed persons engaging in unlawful cannabis activity, there have also been cases where licensed cannabis businesses run a "back door" operation of illicit cannabis commerce in addition to their licensed activity.

Because unlicensed cannabis products do not receive state oversight and enforcement of various health and safety requirements, including laboratory testing, consumption of unlicensed cannabis products can pose a significant risk to consumers. In August 2019, the number of emergency department visits related to cannabis vaping products sharply increased, with a total of 2,807 hospitalized cases or deaths reported to federal Centers for Disease Control and Prevention in the United States. It is believed that much of this "vaping crisis" was the result of untested, unlicensed manufactured cannabis products.

Enforcement against the illicit market has attracted significant legislative attention, particularly within the California State Assembly. A task force was recently established through the 2022-23 Budget process to promote communication between state and local entities engaged in the regulation of commercial cannabis activity and facilitate cooperation to enforce applicable state and local laws. Existing law authorizes the DCC to take enforcement action for violations of MAUCRSA and issue a citation of up to $30,000 for unlicensed individuals. This authority allows the DCC to issue a citation to licensees who sell cannabis products that do not comply with MAUCRSA, or to illicit market operators.

This bill would expressly provide that unlicensed persons or entities engaged in commercial cannabis activities are subject to the same prohibitions regarding advertisement and marketing to minors. While this is arguably the case under current law for purposes of enforcement by the DCC, applying those restrictions to unlicensed activity enable the provisions of this bill empowering public prosecutors to bring enforcement actions to also apply to the illicit market. This bill would therefore both hold the illicit market to the same standards as licensees and provide additional resources for enforcement against unlicensed activity.

Industrial Hemp. Botanically speaking, both industrial hemp and what has historically been referred to as marijuana are members of the same plant species, *Cannabis sativa*. Under California law, the term "cannabis" typically refers to varieties of the species that contain sufficient levels of the cannabinoid THC to produce an intoxicating psychoactive effect, or "high"; this plant and its associated products are regulated by the DCC under MAUCRSA. Hemp, meanwhile, is commonly regarded more as an agricultural plant and has historically been used for products such as paper, textiles, cosmetics, and fabric.

Notwithstanding the biological and chemical similarities of cannabis and hemp, hemp products are widely considered "non-cannabis goods" for purposes of MAUCRSA. However, concerns have recently been raised regarding a perceived proliferation of intoxicating hemp products. The California Cannabis Industry Association (CCIA) issued a white paper in October of 2022 titled *Pandora's Box: The Dangers of a National, Unregulated, Hemp-Derived Intoxicating Cannabinoid Market*. The CCIA report argued that loopholes in the 2018 Farm Bill, which defined industrial hemp as having no more than 0.3 percent delta-9 THC content by dry weight, inadvertently led to the proliferation of intoxicating hemp products.

In recognition of the rise in industrial hemp products producing a psychoactive effect similar to cannabis, this bill would expand the list of restrictions on the advertising and marketing of industrial hemp products to more closely resemble the existing rules for cannabis products under MAUCRSA. Existing law already prohibits a hemp manufacturer from directly target advertising or marketing to children or to persons who are pregnant or breastfeeding and requires any advertising or marketing in public communications to be displayed only where at least 70 percent of the audience is reasonably expected to be 18 years of age or older. This bill would additionally prohibit a manufacturer, distributor, or seller of industrial hemp from doing any of the following:

1) Advertise or market on a billboard or similar advertising device located on an interstate highway or on a state highway that crosses the California border.

2) Advertise or market cannabis or cannabis products in a manner intended to encourage persons under 21 years of age to consume industrial hemp products.

3) Publish or disseminate advertising or marketing that is attractive to children.

4) Advertise or market industrial hemp products on an advertising sign within 1,000 feet of a daycare center, school providing instruction in kindergarten or any of grades 1 to 12, inclusive, playground, or youth center.

This language will create greater regulatory parity between cannabis businesses under MAUCRSA and industrial hemp businesses, including those potentially selling intoxicating products. The same language authorizing the Attorney General or other specified public prosecutors to take action for violations of advertising and marketing restrictions would then be applied to violations of those similar rules for hemp businesses. The bill would therefore arguably serve to further protect minors from exposure to intoxicating products regardless of their classification as cannabis or industrial hemp.

Current Related Legislation.

SB 820 (Alvarado-Gil) would establish a process for the DCC or a local jurisdiction to seize specified property where commercial cannabis activity is conducted without a license. *This bill is pending in the Assembly Committee on Public Safety.*

AB 2223 (Aguiar-Curry) would allow for cannabis licensees to manufacture, distribute, or sell products that contain industrial hemp and places additional restrictions on industrial hemp products containing THC or comparable cannabinoids. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

Prior Related Legislation.

SB 540 (Laird, Chapter 491, Statutes of 2023) required the DCC to regularly reevaluate its regulations and determine whether additional warning labels are necessary to reflect evolving science regarding the risks of cannabis use and to create a brochure that includes steps for safer use of cannabis.

AB 1207 (Irwin) of 2023 would have placed additional restrictions on the advertising, marketing, packaging, and labeling of cannabis and cannabis products. *This bill was vetoed by the Governor.*

AB 794 (Flora) of 2023 would have required all cannabis advertisements and marketing to include the licensee's name in addition to the licensee number, and would prohibit a technology platform or an outdoor advertising company from displaying an advertisement unless the advertisement displays that licensee's name and license number. *This bill died in this committee pursuant to Joint Rule 56.*

AB 273 (Irwin) of 2021 would have placed numerous restrictions on the content of outdoor advertising by cannabis businesses and required a licensing authority to suspend the license of any licensee who violates those restrictions for one year. *This bill failed passage in this committee.*

AB 1417 (B. Rubio) of 2019 would have established civil penalties for violating specified cannabis marketing or advertising requirements, and would have specified disbursement procedures for civil penalties. *This bill was held under submission on the Senate Appropriations Committee's suspense file.*

AB 2899 (B. Rubio, Chapter 923, Statutes of 2018) prohibits a licensee from publishing or disseminating advertisements or marketing of cannabis and cannabis products while the licensee's license is suspended.

SB 94 (Committee on Budget and Fiscal Review, Chapter 27, Statutes of 2017) combined AUMA and MCRSA into a unified system for the regulation of cannabis, resulting in MAUCRSA.

ARGUMENTS IN SUPPORT:

Public Health Institute (PHI) supports this bill, writing: "AB 1498 will create urgently needed authority for the Attorney General, a district attorney, a city attorney or a county counsel to bring and maintain an action to redress a violation of these marketing and advertising restrictions on attractiveness to children. It does not create any obligations to do so. This creates an additional pathway to protect our children by holding the subset of producers acting irresponsibly to account."

ARGUMENTS IN OPPOSITION:

None on file.

REGISTERED SUPPORT:

Public Health Institute

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1526 (Committee on Business, Professions and Economic Development) – As Amended June 11, 2024

SENATE VOTE: 37-0

SUBJECT: Consumer affairs

SUMMARY: Makes numerous technical and clarifying provisions related to programs within the Department of Consumer Affairs (DCA) and makes a conforming change related to fictitious name statements.

EXISTING LAW:

1) Establishes the DCA within the Business, Consumer Services, and Housing Agency, which is comprised of 26 licensing and regulatory entities that administer and enforce various licensing and practice acts within the Business and Professions Code (BPC) and the Education Code (EDC). (BPC §§ 100-472.5)

2) Regulates the practice of dental hygiene under the Dental Practice Act and establishes the Dental Hygiene Board of California (DHBC) to license registered dental hygienists and administer and enforce the provisions of the Dental Practice Act related to dental hygienists. (BPC §§ 1900-1966.6)

3) Regulates the practices of speech-language pathology, audiology, and hearing aid dispensing under the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act and establishes the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (SLPAHADB) to license speech-language pathologists, audiologists, and hearing aid dispensers and administer and enforce the act. (BPC §§ 2530-2539.14)

4) Regulates the practice of nursing under the Nursing Practice Act and establishes the Board of Registered Nursing (BRN) to license registered nurses (RNs) and administer and enforce the act. (BPC §§ 2700-2838.4)

5) Requires an applicant for licensure as an RN to complete the education requirements established by the BRN in a program in this state accredited 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)

6) Prohibits the use of the title "public health nurse" without a public health nurse certificate issued by the BRN. (BPC § 2818(c))

7) Requires the BRN to set the application fee for the public health nurse certificate between $300 and $1,000 and the renewal fee between $125 and $500. (BPC § 2816)

8) Regulates and licenses Physician Assistants (PAs) under the Physician Assistant Practice Act and establishes the Physician Assistant Board (PAB) to administer and enforce the act. (BPC §§ 3500-3546)

9) Regulates the practice of naturopathic medicine under the Naturopathic Doctors Act and establishes the California Board of Naturopathic Medicine (CBNM) to license naturopathic medical doctors and administer and enforce the act. (BPC §§ 3610-3686)

10) Regulates the practice of pharmacy under the Pharmacy Law and establishes the California State Board of Pharmacy (CSBOP) to license pharmacists and administer and enforce the Pharmacy Law. (BPC §§ 4000-4427.8)

11) Regulates the practice of podiatric medicine under the Medical Practice Act and establishes the Podiatric Medical Board of California (PMBC) to license doctors of podiatric medicine (DPMs) and administer and enforce the article of the Medical Practice Act regulating the practice of podiatry. (BPC §§ 2460-2499.8)

12) Regulates the practice of veterinary medicine under the Veterinary Medicine Practice Act and establishes the Veterinary Medical Board (VMB) to license veterinarians and administer and enforce the act. (BPC §§ 4800-4920.8)

13) Regulates the practice of marriage and family therapy under the Licensed Marriage and Family Therapist Act and establishes the Board of Behavioral Sciences (BBS) to, among other things, license marriage and family therapists and administer and enforce the act. (BPC §§ 4980-4989; 4990-4990.42)

14) Regulates the practice of automotive repair under the Automotive Repair Act and establishes the Bureau of Automotive Repair (BAR) to register automotive repair dealers and administer and enforce the act. (BPC §§ 9880-9889.68)

15) Regulates the use of fictitious business names and requires every person who regularly transacts business in this state for profit under a fictitious business name to, among other things, file a fictitious business name statement that includes specified disclosures with the clerk of the county no later than 40 days from the time the registrant commences business. (BPC §§ 17900-17930)

16) Regulates private postsecondary schools under the California Private Postsecondary Act of 2009 and establishes the Bureau for Private Postsecondary Education (BPPE) to approve schools and administer and enforce the act. (EDC §§ 94800-94950)

17) Regulates the practice of psychology under the Psychology Licensing Law and establishes the Board of Psychology (BOP) to license psychologists and administer and enforce the Psychology Licensing Law. (BPC §§ 2900-2999.105)

18) Includes “registered psychological assistant” in various definitions of mental health providers under the Health and Safety Code (HSC). (HSC §§ 1374.72, 124260, 128454)

THIS BILL:

1) Makes technical changes to the Dental Practice Act related to dental hygienists.

2) Deletes the limitation that an applicant for speech-language pathology assistant complete an associate of arts degree and instead allows any associate degree and makes other technical changes to Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act.

3) Replaces the term "accredited" with "approved" when referring to nursing education approved by the BRN, deletes the mandatory minimum fees for public health nurse certification and renewal, and makes other technical changes to the Nursing Practice Act.

4) Renumbers the provisions related to the diversion program for PAs, replaces references to the "Physician Assistant Committee" with "Physician Assistant Board," and makes other technical changes to the PA Practice Act.

5) Replaces references to the "Naturopathic Medicine Committee" with "California Board of Naturopathic Medicine," deletes an outdated provision for Fiscal Year 2003-04, and makes other technical changes to the Naturopathic Doctors Act.

6) Replaces reference to "California Podiatric Board" with "Podiatric Medical Board of California" in the Pharmacy Law.

7) Inserts "California" before "Veterinary Medicine Practice Act" and "Veterinary Medical Board" and makes conforming and other technical changes to the Veterinary Medicine Practice Act.

8) Clarifies that licensed marriage and family therapists may obtain continuing education from any accredited or BPPE-approved school, college, or university.

9) Clarifies that automotive repair dealer registrations must include any educational certifications accepted by BAR, not those approved by BAR.

10) Deletes a reference to a deleted exemption for residential addresses from the 40-day expiration rule for changes in facts set forth in filed fictitious business name statements.

11) Limits the definition of "noninstitutional charges" to charges paid directly to a non-institution, rather than by any means; clarifies that short-term programs are longer than four months; clarifies that an institution may not ever require internal dispute procedures; deletes limiting qualifications for exempting accredited institutions from BPPE approval; clarifies that required website information must be current; and makes other technical changes to the California Private Postsecondary Act of 2009.

12) Replaces the references to "registered psychological assistant" with "registered psychological associate" in various HSC definitions for mental health providers and makes other technical changes in those code sections.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, no significant state costs anticipated.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author, "This bill is the annual 'committee bill' authored by the Business, Professions, and Economic Development Committee, which is intended to consolidate a number of non-controversial provisions related to various regulatory programs and professions governed by the BPC. Consolidating the provisions in one bill aims to relieve the various licensing boards, bureaus, professions, and other regulatory agencies from the necessity and burden of having separate measures for a number of non-controversial revisions. Many of the provisions of this bill are minor, technical, and updating changes."

Background. This bill is a committee "omnibus" bill that contains changes requested by various boards and bureaus under the jurisdiction of the DCA that have been identified by those entities as technical, non-substantive changes that will update or clarify provisions of the various practice acts. This bill also replaces various terms with gender-neutral variants throughout.

Dental Hygiene Board of California (DHBC). The DHBC is the regulatory agency responsible for licensing registered dental hygienists and enforcing the relevant portions of the Dental Practice Act. This bill adds the terms "dental," "hygiene," or "dental hygiene," in front of the word "board" in various parts of the act.

Speech-Language, Pathology, Audiology and Hearing Aid Dispensers Board (SLPAHDB). The SLPAHDB is the regulatory agency responsible for licensing speech-language pathologists, audiologists, and hearing aid dispensers and enforcing the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act. This bill deletes the limitation that speech-language pathology assistant applicants complete an associate of arts degree to reflect the variety of associate degrees offered for a speech-language degree and makes other technical changes to the act.

Board of Registered Nursing (BRN). The BRN is the regulatory agency responsible for licensing registered nurses and enforcing the Nursing Practice Act. The BRN is also one of the few licensing boards that actively approve and regulate educational programs that offer the degrees necessary for licensure.

Although the BRN approval process is similar to accreditation by an accrediting body, the purpose of approval is to ensure the programs meet the minimum legal educational requirements established under the Nursing Practice Act and by the BRN. On the other hand, the purpose of accreditation is to ensure that education provided by institutions or programs of higher education meets acceptable levels of quality. This bill replaces the term "accredited" with "approved" to reflect that the Board of Registered Nursing approves education programs and does not accredit such programs.

This bill also deletes the minimum fee for public health nurse applications and renewals, to allow the Board of Registered Nursing to reduce licensure fees for a public health nurse when necessary.

The Physician Assistant Board (PAB). The PAB is the regulatory agency responsible for licensing PAs and enforcing the PA Practice Act. Before 2012, the PAB was a "committee" under the Medical Board of California. SB 1236 (Price), Chapter 332, Statutes of 2012, renamed the committee to a board. This bill updates a section where that change was not reflected.

California Board of Naturopathic Medicine (CBNM). The CBNM is the regulatory agency responsible for licensing naturopathic medical doctors and enforcing the Naturopathic Doctors Act. Before 2022, the NMC was a "committee" under the Osteopathic Medical Board of California. AB 2685 (Committee on Business and Professions), Chapter 414, Statutes of 2022, renamed the committee to a board. This bill updates various sections where that change was not reflected.

Podiatric Medical Board of California (PMBC). The PMBC is the regulatory agency responsible for licensing DPMs and enforcing the podiatry provisions of the Medical Practice Act. Before July 1, 2019, the PMBC was named the California Board of Podiatric Medicine. AB 2457 (Irwin), Chapter 102, Statutes of 2018, renamed the board to PMBC. This bill updates a section of the Pharmacy Law where that change was not reflected.

Veterinary Medical Board (VMB). The VMB is the regulatory agency responsible for licensing veterinarians and enforcing the Veterinary Medicine Practice Act. The VMB believes adding "California" to its name will make it easier to identify itself to entities out of state, therefore this bill changes the VMB's name to the "California Veterinary Medical Board." This bill also makes other technical changes to the act.

Board of Behavioral Sciences (BBS). The BBS is the regulatory agency responsible for licensing licensed marriage and family therapists (LMFTs) under the Licensed Marriage and Family Therapist Act, educational psychologists (LEPs) under the Educational Psychologist Practice Act, clinical social workers (LCSWs) under the Clinical Social Worker Practice Act, and professional clinical counselors (LPCCs) under the Licensed Professional Clinical Counselor Act. The BBS seeks to clarify that continuing education for LMFTs must be obtained from a school that is approved or accredited, as defined, but that the coursework does not have to be solely from a school that offers a degree in marriage and family therapy.

Bureau of Automotive Repair (BAR). The BAR is the regulatory agency responsible for registering automotive repair dealers (ARDs) and enforcing the Automotive Repair Act. This bill clarifies that the BAR does not "approve" educational courses that have to be included in ARD registration forms.

Fictitious Business Names (FBNs). FBNs are business names that do not coincide with the identities of business owners. This bill deletes a reference to the residential address exemption to the 40-day expiration rule for changes made to FBN filings that was deleted in AB 878 (Pellerin), Chapter 878, Statutes of 2023.

Bureau for Private Postsecondary Education (BPPE). The BPPE is the regulatory agency responsible for approving private postsecondary schools and enforcing the California Private Postsecondary Act of 2009. This bill clarifies that specified information schools must post on their websites must be "current"; replaces a reference to "board" with "bureau"; clarifies that non-institutional charges are those that are paid directly to an entity that is not an educational

institution, which excludes charges that may end up going to other entities after being paid directly to an institution; deletes an obsolete list of requirements for an exemption from BPPE approval; and makes other technical changes to the act.

On the list, the BPPE writes, "an obsolete exemption exists in statute that is no longer utilized yet creates administrative issues for the Bureau. Education Code section 94947 states that an institution approved for federal Veterans Administration benefits may be exempt if it meets 13 separate established criteria designed to support long-standing, family-owned institutions. The only institution known to have been granted exemption under this section no longer qualifies for exemption, rendering the provision unused. However, the continued existence of this exemption creates issues for the Bureau in designing its form for applying verification of exempt status. Institutions may apply to the Bureau to request verification of exempt status whereby the Bureau will confirm that the institution is exempt from most Bureau regulation. The application form must cover all current exemptions, including the unused section 94947 exemption. Education Code section 94947 creates difficulties for the Bureau and does not create any benefit for private postsecondary institutions."

Board of Psychology (BOP). The BOP is the regulatory entity agency responsible for licensing psychologists and enforcing the Psychology Licensing Law. The BOP also licenses "registered psychological associates," who are psychologists in training who perform psychological functions under the supervision of a licensed psychologist. Before 2022, registered psychological associates were called "registered psychological assistants." SB 801 (Archuleta), Chapter 647, Statutes of 2021, renamed the assistants to associates. This bill updates various provisions of the HSC where that change was not reflected.

Current Related Legislation. AB 2471 (Jim Patterson), which is pending in the Senate, would delete the requirement for public health nurses to renew their public health certification with the BRN.

Prior Related Legislation. SB-887 (Committee on Business, Professions and Economic Development), Chapter 510, Statutes of 2023, was the committee's 2023 omnibus bill.

SB-1495 (Committee on Business, Professions and Economic Development), Chapter 511, Statutes of 2022, was the committee's 2022 omnibus bill.

SB-826 (Committee on Business, Professions and Economic Development), Chapter 188, Statutes of 2021, was the committee's 2021 omnibus bill.

SB-1474 (Committee on Business, Professions and Economic Development), Chapter 312, Statutes of 2020, was the committee's 2020 omnibus bill.

SB-786 (Committee on Business, Professions and Economic Development), Chapter 456, Statutes of 2019, was the committee's 2019 omnibus bill.

SB-1492 (Committee on Business, Professions and Economic Development), Chapter 422, Statutes of 2018, was the committee's 2018 non-healing arts omnibus bill.

SB-1491 (Committee on Business, Professions and Economic Development), Chapter 703, Statutes of 2018, was the committee's 2018 healing arts omnibus bill.

SB-800 (Committee on Business, Professions and Economic Development), Chapter 573, Statutes of 2017, was the committee's 2017 omnibus bill.

SB-1479 (Committee on Business, Professions and Economic Development), Chapter 634, Statutes of 2016, was the committee's 2016 non-healing arts omnibus bill.

SB-1478 (Committee on Business, Professions and Economic Development), Chapter 489, Statutes of 2016, was the committee's 2016 healing arts omnibus bill.

SB-800 (Committee on Business, Professions and Economic Development), Chapter 426, Statutes of 2015, was the committee's 2015 omnibus bill.

ARGUMENTS IN SUPPORT:

The California Board of Psychology writes in support, "This bill would amend Health and Safety Codes (HSC) 1374.72, 124260, and 128454 by removing the outdated registration category for 'registered psychologist' and amend the registration title 'psychological assistant' by replacing the category with the current title of 'psychological associate.' By amending these HSC's, the Board believes any confusion or errors on what qualifies as a 'professional person' will be avoided under the specific code."

ARGUMENTS IN OPPOSITION:

None on file

IMPLEMENTATION ISSUES:

1) *"California" Practice Acts*. This bill adds "California" before "Veterinary Medicine Practice Act." While including "California" in the legal name of a board can assist in communication with national entities or other states, it is unclear what benefit this provides for the name of a chapter of the California Code. Some practice acts are not named at all. Of the practice acts in the BPC that do have statutory names, this would be the only act with "California" in it.

2) *Typographical Error*. This bill clarifies that the prohibition against untrue or misleading changes and statements to the BPPE applies to specified records and information, but appears to be missing a colon.

3) *Chaptering Conflict*. This bill deletes the fee floor for the renewal of public health nurse certificates under the BRN, but AB 2471 (Jim Patterson), which is pending in the Senate, deletes the renewal requirement altogether. If this bill passes this committee, the authors of both bills may wish to reconcile the differences to avoid chaptering out issues.

AMENDMENTS:

1) To address the concern regarding the addition of "California" before "Veterinary Medicine Practice Act":
   On page 44 of the bill, strike lines 33-36:

   ~~SEC. 59. Section 4811 of the Business and Professions Code is amended to read:~~

   ~~4811. This chapter shall be known and may be cited as the "California Veterinary Medicine Practice Act."~~

2) To address the typographical error related to BPPE:

   Page 67, lines 13-21:

   (j) In any manner make an untrue or misleading change in, or untrue or misleading statement related ~~to,~~ *to:* a test score, grade or record of grades, attendance record, record indicating student completion, placement, employment, salaries, or financial information; a financial report filed with the bureau; information or records relating to the student's eligibility for student financial aid at the institution; or any other record or document required by this chapter or by the bureau.

REGISTERED SUPPORT:

California Board of Psychology

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1459 (Nguyen) – As Amended May 16, 2024

SENATE VOTE: 38-0

SUBJECT: Animal shelters

SUMMARY: Requires public animal control agencies and shelters and private animal shelters, as specified, to update any data that they make available on their internet website at least once per month, and requires those agencies and shelters to publish specified information on their internet website, including the number of animals taken in during the prior month and the outcomes for animals over the prior month.

EXISTING LAW:

1) Governs the operation of animal shelters by, among other things, setting a minimum holding period for stray dogs, cats, and other animals, and requiring animal shelters to ensure that those animals, if adopted, are spayed or neutered and, with exceptions, microchipped. (Food and Agricultural Code (FAC) §§ 30501 *et seq.*; §§ 31108 *et. seq.*; §§ 31751 *et seq.*; §§ 32000 *et seq.*)

2) Mandates that no public animal control agency or shelter, society for the prevention of cruelty to animals shelter, humane society shelter, or rescue group shall sell or give away to a new owner any dog or cat that has not been spayed or neutered, subject to certain exceptions. (FAC § 30503(a)); § 31751.3).

3) Clarifies that each member of a litter of puppies or kittens, weaned or unweaned, shall be treated as an individual animal. (FAC § 30504; § 31751)

4) Authorizes animal shelters within counties that have a population of fewer than 100,000 people to transfer a dog that has not been spayed or neutered to a new owner, only if the shelter:

   a) Requires a written agreement, executed by the recipient, acknowledging the dog is not spayed or neutered and the recipient agrees to be responsible for ensuring the dog will be spayed or neutered within 30 business days after signing.

   b) Receives a sterilization deposit of not less than forty dollars ($40) and not more than $75, the terms of which are part of the written agreement executed by the recipient.

   (FAC § 30520(d))

5) Mandates that county boards of supervisors shall provide for:

   a) The taking up and impounding of all dogs which are found running at large in violation of any provision of this division.

   b) The killing in some humane manner or other disposition of any dog which is impounded.

(FAC § 31105)

6) Authorizes county boards of supervisors to contract with any humane society or other organization or association for purposes of carrying out the requirement to take up, impound, and humanely euthanizing stray dogs. (FAC § 31106)

7) Mandates that a public shelter shall release any stray dog or cat to a nonprofit, animal rescue, or adoption organization prior to euthanasia if requested by the organization. (FAC § 31108(b)(1); § 31752(c)(1))

8) Clarifies that unowned puppies or kittens aged 8 weeks or younger may be made immediately available for adoption or release to a nonprofit, animal rescue, or adoption organization. (FAC §31108(b)(2); 31752(c)(2))

9) Clarifies that puppies or kittens relinquished to public or private shelters by their purported owner may be made immediately available for adoption. (FAC § 31754)

10) Requires all public animal shelters, shelters operated by societies for the prevention of cruelty to animals, and humane shelters that perform public animal control services, to provide the owners of lost animals and those who find lost animals with all of the following:

    a) Ability to list the animals they have lost or found on "Lost and Found" lists maintained by the animal shelter.

    b) Referrals to animals listed that may be the animals the owners or finders have lost or found.

    c) The telephone numbers and addresses of other animal shelters in the same vicinity.

    d) Advice as to means of publishing and disseminating information regarding lost animals.

    e) The telephone numbers and addresses of volunteer groups that may be of assistance in locating lost animals.

    (FAC § 32001)

11) Requires all public and private animal shelters to keep accurate records on each animal taken up, medically treated, or impounded, which shall include all of the following information and any other information required by the Veterinary Medical Board of California:

    a) The date the animal was taken up, medically treated, euthanized, or impounded.

    b) The circumstances under which the animal was taken up, medically treated, euthanized, or impounded.

    c) The names of the personnel who took up, medically treated, euthanized, or impounded the animal.

    d) A description of any medical treatment provided to the animal and the name of the veterinarian of record.

e) The final disposition of the animal, including the name of the person who euthanized the animal or the name and address of the adopting party. These records shall be maintained for three years after the date on which the animal's impoundment ends.

(FAC § 32003)

THIS BILL:

1) Requires a public animal shelter, or private animal shelter with local contracts for animal care, to update any data that it posts on its internet website at least once per month.

2) Requires a public animal shelter, or private animal shelter with local contracts for animal care, to post the following information on its internet website:

   a) The number of animals taken in during the prior month with separate categories for dogs, cats, and other animals,

   b) The source of intake, such as a relocation from another shelter or from the field, and

   c) Outcomes for animals over the prior month, including adoptions, returns to owners, transfers to rescue organizations, euthanized animals, animals that died in care, or those that were dead upon arrival.

3) Specifies that the provisions only apply to shelters located in a county with a population greater than 400,000.

FISCAL EFFECT: According to the Senate Committee on Appropriations, this bill will result in unknown reimbursable mandate costs for public animal shelters to track, post, and update the information required in this bill on a monthly basis. Other costs may include software and other IT operating expenses, as well as staff time and resources to compile data and respond to public inquiries on posted information. The bill will also result in unknown fiscal impact to local municipalities, to the extent that private animal shelters contracting with a local municipality for animal care pass on their increased IT or staff costs to comply with the mandates of this bill through increased contracting costs.

COMMENTS:

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

> An estimated 500,000+ cats and dogs entered California animal shelters in 2023. Unfortunately, over 10% of them did not find a home and were euthanized. With 232 animal shelters in California there are no standardized reporting requirements for animal shelters. Standard reporting will ease the search by people looking for a pet to adopt. SB 1459 will also allow better comparisons between superior shelters and marginal ones and provide shelter operators an incentive to improve their operations. Data reporting plays a vital role in animal rescues informed decision-making processes. Data analytics help shape resource allocation, care plans, adoption and fundraising strategies. In the absence of strong data reporting systems, many challenges emerge. Gaps in data transparency create trust issues between shelters and the communities they serve.

Background.

Animal Shelters and Rescues. In 1966, the United States Congress enacted the Animal Welfare Act (AWA) to provide standards on the humane handling, care, and treatment of animals. Enforced by the United States Department of Agriculture (USDA), the AWA regulates animal rights in various settings, including scientific research, public exhibitions, or transportation. In addition, California is home to a number of animal protection laws intended to further safeguard the wellbeing and life of animals in various settings. These include the Polanco-Lockyer Pet Breeder Warranty Act, which outlines requirements for dog breeders to raise dogs and puppies in humane conditions, and provides purchasers with refund or reimbursement remedies should an animal be sick or ill due to improper breeding practices. Similarly, laws like the Lockyer-Polanco-Farr Pet Protection Act establishes animal welfare and consumer protection requirements on pet dealers and the animals they sell.

As it pertains to adoptable animals in shelters, rescues, and other nonprofit organizations, California has made efforts to reduce the amount of animals euthanized and streamline administrative overhead in order to aid shelters in getting more animals into new homes. In 1998, the Legislature enacted Senate Bill 1785 by Senator Tom Hayden – often dubbed the "Hayden Act" or "Hayden Law" - which formally established that the State of California's policy is "that no adoptable animal should be euthanized if it can be adopted into a suitable home" and "that no treatable animal should be euthanized." The Hayden Law, largely codified in the Food and Agriculture Code (FAC), require shelters to hold animals for a minimum of four to six days before euthanizing them, giving owners a chance to reclaim their pets or allowing animals to be adopted. In addition, the Hayden Law requires shelters to surrender any stray dog or cat to a rescue or IRS 501(c)(3) nonprofit organization, or "rescue" prior to their euthanasia should such an organization request the animal.

Much of the Hayden Law has not been implemented or enforced due to fiscal challenges. In 2000, local governments successfully obtained a decision from the Commission on State Mandates that costs incurred by cities and counties in complying with the law must be reimbursed by the state. Subsequently beginning with the Budget Act of 2009, the state has not provided funding for this reimbursement. While a proposal by Governor Jerry Brown to repeal portions of the Hayden Law in 2012 were rejected by the Legislature, animal welfare advocates have argued that the bill was effectively annulled through its lack of funding, as referenced by this resolution.

The present "ecosystem" of animal welfare organizations in the state is primarily comprised of three types of entities. Public shelters are operated directly by a local municipality, such as a county animal control department, and often rely on volunteers or outside donations for further support. For example, the City of Sacramento operates the Front Street Animal Shelter, while receiving additional financial and volunteer support from the Friends of Front Street, a 501(c)(3) nonprofit organization. Private shelters are those independently organized and operated, usually as a nonprofit, such as humane societies and societies for prevention of cruelty to animals (SPCAs). Sometimes, municipalities will contract with one of these private shelters to provide animal control services; for example, the San Diego Humane Society (SDHS) is the primary animal control agency for the cities of San Diego, Encinitas, Santee, and more. Finally, "rescues" or "sanctuaries" are organizations that work to support and promote animal welfare in various forms: some may serve to foster and re-home adoptable animals at risk of euthanasia, provide care for shelter animals who are weaning or need medical supervision, or even be a permanent

sanctuary for animals who are injured or otherwise cannot find a home. Sanctuaries and rescues come in many shapes and sizes; some rescues are brick-and-mortar facilities not dissimilar to a private shelter, while others may be run from a home or other private property. Ideally, these three types of entities – public shelters, private shelters, and rescues – work in tandem to improve outcomes for animals across the state.

Data & transparency efforts. FAC Section 32003 requires specified recordkeeping for all public and private shelters as it relates to animals taken up, medically treated, or impounded. Specifically, shelters are required to keep record of the date and circumstances under which an animal was taken in or cared for, the names of personnel involved, a description of any medical treatment administered, the final disposition of the animal (including whether it was adopted or euthanized), and any other information as required by the California Veterinary Medical Board. Such information is not only important to lawmakers in determining future reforms and budgetary needs, but is considered essential to the animal welfare community to coordinate care across organizations and jurisdictions.

Unfortunately, there is currently no uniform standard or central database in California for reporting and making available relevant animal shelter data. Through 2016, the California Department of Public Health (CDPH) released certain data points that were voluntarily submitted by shelters as part of its annual rabies reporting, but ceased releasing these additional data points in 2017 due to workload concerns. In subsequent years, this committee has approved legislation by Assemblymember Lee (AB 332 from 2023, and AB 2012 from earlier this year) to make such reporting an explicit duty of the CDPH, but both efforts stalled in the Assembly Appropriations Committee. In the same spirit of transparency and data sharing to improve shelter outcomes, this bill would require all public shelters, or private shelters that contract with a municipality, to provide monthly reports of certain data points crucial to determining outcomes and future needs for the shelters in California. Unlike the Lee bills, this legislation would not mandate that an agency or department is responsible for shepherding the data, but rather requires shelters to post this data on their website. Furthermore, these reporting requirements would only apply to shelters located in a county with a population greater than 400,000.

Current Related Legislation.

SB 1233 (Wilk) would, upon appropriation by the Legislature, request the Regents of the University of California and the governing body of Western University of Health Sciences to develop high-quality, high-volume spay and neuter certification programs to be offered as elective coursework to students enrolled in the respective veterinary schools, among other things. *This bill is pending in this committee.*

SB 1478 (Nguyen) authorizes licensed veterinarians to include specified information in an order issued to a registered veterinary technician (RVT) related to animal health care services performed on animals impounded in a public shelter. *This bill is pending in this committee.*

AB 2012 (Lee) would have required the California Department of Public Health (CDPH) to collect specified data from public animal shelters as part of their annual rabies control activities reporting, and authorized the CDPH to contract out this requirement to a California accredited veterinary school. *This bill was held in the Assembly Committee on Appropriations.*

AB 2265 (McCarty) would have required animal shelters to post both daily lists on the internet and physical notices on animal kennels for cats or dogs scheduled for euthanasia at least 24 hours

prior to the animal is scheduled to be euthanized; would have amended language declaring the policies of the state regarding the euthanasia of animals; would have prohibited shelters and rescue groups from giving a dog or cat to a foster unless spay or neuter surgery has been scheduled within 30 days; required shelters seeking to adopt a policy, practice, or protocol that potentially conflicts with the Hayden Law to give notice to their local government and then schedule a public hearing; and made various additional changes to existing laws and requirements relating to animal welfare and animal shelters. *This bill was held on suspense in the Assembly Committee on Appropriations.*

AB 2425 (Essayli) would have required animal shelters to provide public notice on the internet that contains a list of all animals that are available for adoption or being held by the animal shelter, required the CDFA to conduct a study on animal shelter overcrowding and the feasibility of a statewide database of dogs and cats, expanded the definition of "breeder," and placed additional requirements on sales or transfers of dogs by breeders. *This bill was held without recommendation in this committee.*

Prior Related Legislation.

AB 595 (Essayli) of 2023 would have required animal shelters to provide 72 hours public notice before euthanizing any dog, cat, or rabbit with information that includes information about the animal and that it is subject to euthanasia, and would have required the CDFA to conduct a study on animal shelter overcrowding and the feasibility of a statewide database for animals scheduled to be euthanized. *This bill was held on suspense in the Assembly Committee on Appropriations.*

AB 1881 (Santiago) of 2022 would have required every public animal control agency, shelter, or rescue group to conspicuously post or provide a copy of a Dog and Cat Bill of Rights. *This bill died on the Senate Floor.*

AB 2723 (Holden, Chapter 549, Statutes of 2022) established additional requirements on various types of public animal shelters related to microchip registration and the release of dogs and cats.

AB 702 (Santiago) of 2021 would have required local jurisdictions, animal control agencies, or the entities responsible for enforcing animal-related laws, to establish permit programs regulating the breeding of cats and dogs. *This bill died in this committee.*

AB 588 (Chen, Chapter 430, Statutes of 2019) required any shelter or rescue group in California to disclose when a dog has a bite history when it is being adopted out.

ACR 153 (Santiago, Chapter 72, 2018) urged communities in California to implement policies that support the adoption of healthy cats and dogs from shelters by 2025.

AB 2791 (Muratsuchi, Chapter 194, Statutes of 2018) permitted a puppy or kitten that is reasonably believed to be unowned and is impounded in a shelter to be immediately made available for release to a nonprofit animal rescue or adoption organization before euthanasia.

SB 1785 (Hayden, Chapter 752, Statutes of 1998) established that the State of California's policy is that no adoptable animal should be euthanized if it can be adopted into a suitable home.

ARGUMENTS IN SUPPORT:

This bill is supported by **Social Compassion in Legislation (SCIL).** SCIL writes: "SB 1459 will give stakeholders at least partial visibility into the numbers of animal entering and exiting our state's shelters and help ensure funds are most effectively and efficiently targeted, while giving lawmakers a better picture of the pet overpopulation problem as they move forward with legislative solutions."

This bill has a support, if amended position from the **California Animal Welfare Association (CalAnimals),** the **American Kennel Club (AKC),** and the **American Society for the Prevention of Cruelty to Animals (ASPCA)**, all requesting similar changes to the legislation. In their position letter, CalAnimals writes: "We respectfully request amendments to this bill that require reporting by all public and private animal shelters, as well as all animal rescue and adoption organizations in the state of California, regardless of the size of their community. Additionally, we ask that all such organizations are given until January 1, 2026 to comply... As an organization dedicated to the success of shelters and animal welfare organizations in meeting the needs of animals and people in their community, this information is vital. Requiring reporting of these basic data points would be a meaningful step forward for animal welfare in our state."

ARGUMENTS IN OPPOSITION:

This bill is opposed by **Fix Our Shelters,** a non-profit "animal shelter watch dog organization", who writes: "SB 1459 may have the unintended consequence of doing more harm than good as larger shelters ALREADY provide the data specified in SB 1459 on a more frequent basis. It could potentially encourage some shelters to provide less information, less often. As written, SB 1459 will allow shelters to potentially advance an incomplete and false picture of the effectiveness of their operations."

POLICY ISSUE(S) FOR CONSIDERATION:

Implementation Date. Should it be approved, this bill currently would take effect on January 1, 2025. Several organizations representing public shelters, and private shelters that contract with municipalities, have noted that shelters across the state differ in size, resources, and online presence, and as such some may need more time to ready the proper IT infrastructure needed for the bill's requirements. As such, a delayed implementation by a year would allow the wide variety of shelters throughout the state adequate time to comply with this bill's provisions. The author should consider amending the bill to clarify that provisions do not take effect until January 1, 2026.

County Population Limit. As written, this bill limits provisions to only apply to public shelters, and private shelters with local contracts, that reside in a counties with a population greater than 400,000, which is only 22 of California's 58 counties. While this "phase-in" approach was sensible in the bill's initial form, which included data requirements for shelters beyond their normal recordkeeping requirements, the data points required in the present bill are in line with recordkeeping that all shelters in the state must maintain according to current law. Stakeholders representing shelters note that many public shelters, and private shelters with a public contract, technically reside in a county with less than 400,000 residents, but serve a much larger area of the state. For example, the Marin Humane Society, which contracts with the County of Marin to fulfill its animal control services, has a large footprint across the Bay Area – including a foster

program headquartered in Oakland – despite technically residing in a county with a population far less than 400,000.

In the past, this committee approved several bills that would have mandated similar, or in some cases far greater, data disclosure requirements as this legislation, noting the desire for greater transparency in how public dollars are being used to further the state's animal welfare goals. Considering that the data required to be disclosed under this bill is already mandated to be kept under law, expanding it to apply to any shelter that relies on public funds with give the Legislature insight into how public shelters, and private shelters that contract with municipalities, are performing. As such, the author should amend this bill to remove language that limits the bill to only shelters in counties with a population greater than 400,000.

Disclosure by Private Shelters. In letters addressed to the committee, several organizations representing public and private shelters argued that this bill should apply to all public and private shelters, not just those that contract with localities. In practice, this would impose these disclosure requirements on all rescues, sanctuaries, nonprofits, or other organizations that work for the purpose of animal welfare as captured under state law. While these organizations are already mandated by law to keep record of the data required under this bill, and as such the Legislature and the wider public should indeed have insight into their efficacy and operations, the requirement that every type of private shelter, rescue, or other animal organization post such data on a website may be too onerous for a wide variety of groups. Many small nonprofits, for example, may not have access to IT resources necessary to maintain this bill's requirement to post data and update it monthly.

Nevertheless, this sort of transparency in animal welfare operations is a continued goal of the state, and at a future time, the author and the Legislature should consider approaches that would bring greater transparency to private shelters, rescues, and nonprofits, and ensure they too are in compliance with state law.

AMENDMENTS:

In order to delay implementation by a year and make the bill applicable to all public shelters and private shelters with a local contract, amend the bill as follows:

On page 3, after line 1:

~~(c) This section shall apply only to a public animal shelter or private animal shelter with local contracts for animal care located in a county with a population greater than 400,000.~~

(c) This section shall become operative on January 1, 2026.

REGISTERED SUPPORT:

Social Compassion in Legislation
American Society for the Prevention of Cruelty to Animals (*if amended*)
American Kennel Club (*if amended*)
California Animal Welfare Association (*if amended*)

REGISTERED OPPOSITION:

Fix Our Shelters
Pet Assistance Foundation
2 Individuals

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1478 (Nguyen) – As Amended April 17, 2024

SENATE VOTE: 39-0

SUBJECT: Veterinary medicine: registered veterinary technicians

SUMMARY: authorizes licensed veterinarians to include specified information in an order issued to a registered veterinary technician (RVT) related to animal health care services performed on animals impounded in a public shelter.

EXISTING LAW:

1) Provides for the regulation of veterinary medicine under the Veterinary Medicine Practice Act (Act) and prohibits the practice of unlicensed of veterinary medicine. (Business and Professions Code (BPC) §§ 4800-4917)

2) Establishes the Veterinary Medical Board (VMB) within the Department of Consumer Affairs (DCA) to license and regulate the veterinary medicine profession. (BPC § 4800)

3) Declares it is unlawful to practice veterinary medicine in California unless the individual holds a valid, unexpired, and unrevoked license issued by the VMB. (BPC § 4825)

4) Provides that an individual practices veterinary medicine, surgery, and dentistry, and the various branches thereof, when the practitioner does any one of the following:

    a) Represents oneself as engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches.

    b) Diagnoses or prescribes a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals.

    c) Administers a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals, as specified.

    d) Performs a surgical or dental operation upon an animal.

    e) Performs any manual procedure for the diagnosis of pregnancy, sterility, or infertility upon livestock or equidae.

    f) Collects blood from an animal for the purpose of transferring or selling that blood and blood component products to a licensed veterinarian at a registered premise, as specified.

g) Uses any words, letters, or titles in such connection or under such circumstances as to induce the belief that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry, as specified.

(BPC § 4826)

5) Permits a veterinarian to authorize an RVT to act as an agent of the veterinarian for the purpose of establishing the veterinarian-client-patient relationship to administer preventive or prophylactic vaccines or medications for the control or eradication of apparent or anticipated internal or external parasites, subject to certain conditions, including:

a) Vaccines must be administered in a registered veterinary premises at which the veterinarian is physically present.

b) If working at a location other than a registered veterinary premises, the veterinarian is in the general vicinity or available by telephone and is quickly and easily available. The RVT shall have necessary equipment and drugs to provide immediate emergency care.

c) The RVT examines the animal patient and administers vaccines in accordance with written protocols and procedures established by the veterinarian.

d) The veterinarian and RVT sign and date a statement containing an assumption of risk by the veterinarian for all acts of the RVT related to patient examination and administration of vaccines, short of willful acts of animal cruelty, gross negligence, or gross unprofessional conduct on behalf of the RVT.

e) The veterinarian and RVT sign and date a statement containing authorization for the RVT to act as an agent of the veterinarian until such date as the veterinarian terminates authorization.

f) Before the RVT examines or administers vaccines to the animal patient, the RVT informs the client orally or in writing that they are acting as an agent of the veterinarian.

g) Signed statements between the veterinarian and RVT must be retained by the veterinarian for the duration of the RVT's work as an authorized agent and until three years from the date of termination of their relationship with the veterinarian.

(BPC § 4826.7(b))

6) Requires all veterinarians engaged and employed as veterinarians by the state, or a county, city, corporation, firm, or individual to secure a license issued by the VMB. (BPC § 4828)

7) Requires the VMB to adopt regulations delineating animal health care tasks and an appropriate degree of supervision required for those tasks that may be performed solely by an RVT or licensed veterinarian. (BPC § 4836(a))

8) Permits the VMB to additionally adopt regulations establishing animal health care tasks that may be performed by a veterinary assistant, an RVT or a licensed veterinarian. (BPC § 4836(b))

9) Requires the VMB to establish an appropriate degree of supervision by an RVT or a licensed veterinarian over a veterinary assistant for any authorized tasks and provides that the degree of supervision for any of those tasks shall be higher than, or equal to, the degree of supervision required when an RVT performs the task. (BPC § 4836(b))

10) Authorizes the VMB to revoke or suspend the certificate of registration of an RVT, as specified. (BPC § 4837)

11) Prohibits an individual from using the title "RVT," "veterinary technician," or using the initials "RVT" without meeting the requirements of an RVT. (BPC § 4839.5)

12) Defines "direct supervision" as the supervisor physically present at the location where animal healthcare professionals provide care and tasks which are expected to be conducted quickly and are easily available. (California Code of Regulations (CCR), tit. 16, § 2034(e))

13) Defines "indirect supervision" as the supervisor not being physically present at the location where animal healthcare tasks, treatments, procedures, etc. are to be performed, but has given either written or oral instructions ("direct orders") for treatment of the animal and the animal has been examined by a veterinarian in a manner consistent with the appropriate delegated animal health care task and that the animal is not anesthetized, as defined. (CCR, tit. 16, § 2034(f))

14) Authorizes RVTs and veterinary assistants to perform those animal health care services prescribed by law under the supervision of a veterinarian licensed or authorized to practice. (BPC § 4840(a))

15) Specifies that an RVT may perform animal health care services on impounded animals by a state, county, city, or city and county agency pursuant to the direct order, written order, or telephonic order of a veterinarian licensed or authorized to practice in California. (BPC § 4840(b))

16) Permits an RVT to apply for registration from the federal Drug Enforcement Administration to allow the direct purchase of sodium pentobarbital for the performance of euthanasia, without the supervision or authorization of a licensed veterinarian. (BPC § 4840(c))

17) Prohibits an RVT from performing the following functions or activities that represent the practice of veterinary medicine, requires the knowledge, skill, and training of a licensed veterinarian:

    a) Surgery,

    b) Diagnosis and prognosis of animal diseases, and

    c) Prescribing drugs, medications, or appliances.

    (BPC § 4840.2)

18) Allows an RVT to perform the following procedures under the direct supervision of a licensed veterinarian:

    a) Induce anesthesia,

b) Perform dental extractions,

c) Suture cutaneous and subcutaneous tissues, gingiva, and oral mucous membranes,

d) Create a relief hole in the skin to facilitate placement of an intravascular catheter, and

e) Drug compounding from bulk substances.

(CCR, tit. 16 § 2036(b))

19) Authorizes an RVT to perform the following procedures under indirect supervision of a licensed veterinarian:

a) Administer controlled substances,

b) Apply casts and splints,

c) Provide drug compounding from non-bulk substances.

(CCR, tit. 16 § 2036(b))

THIS BILL:

1) Authorizes veterinarians to include any of the following information in a direct order, written order, or telephonic order issued to an RVT for care to animals impounded by a state or municipal agency:

a) Time periods by which an impounded animal is required to be assessed at intake and monitored while in the custody of an agency,

b) Protocols to address the treatment of common medical conditions encountered in impounded animals,

c) Protocols for controlling infectious and zoonotic diseases and for preventing environmental contamination,

d) Protocols for controlling the acute pain of an impounded animal,

e) Communication requirements between the registered veterinary technician and the supervising veterinarian, and

f) Euthanasia criteria for medically related cases.

FISCAL EFFECT: This bill was ordered out of the Senate Committee on Appropriations pursuant to Senate Rule 28.8, due to negligible fiscal impact on the State.

COMMENTS:

Purpose.

This bill is author-sponsored. According to the author:

Unwanted pets remain a serious problem in California. An estimated 500,000+ cats and dogs entered California animal shelters in 2023. Unfortunately, over 10% of them did not find a home and were euthanized. With 232 animal shelters in California there is no standard guidance in the code for what constitutes a reasonable and efficient protocols for the management of shelter animals. SB 1478 will provide a standard by which animal shelters can judge the adequacy of their daily treatment and management of the animals in their care.

Background.

Veterinarians and RVTs. Veterinarians (Doctors of Veterinary Medicine, or "DVM"s) and registered veterinary technicians (RVTs) each play a distinct, vital role in an animal hospital or veterinary clinic, one not dissimilar to the relationship between a Doctor of Medicine (MD) and a registered nurse (RN) in an emergency room or medical clinic. In order to practice veterinary medicine and provide healthcare to a variety of animals, veterinarians must secure a license through the VMB. A licensed California veterinarian is authorized to engage in the practice of veterinary medicine, surgery, veterinary dentistry, and related health procedures for the benefit of an animal's general health and wellbeing. Veterinarians are trained and licensed to diagnose, prescribe medication and provide treatment for the animal's health and improvement to the animal's quality of life. Veterinarians are extensively trained, satisfied academic requirements, and provide health care for various animals. Veterinarians receive specific healthcare training as it applies to animals and understanding the nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease of animals.

RVTs serve a crucial role in the veterinary workforce by providing vital supportive health-related tasks. These health tasks involve drawing blood and conducting laboratory tests, operating radiographic equipment, administering medication, as well as countless other health related procedures. In the surgical process, the RVT is typically responsible for pre- and post-operation tasks under the direct supervision of a veterinarian, such as the induction of anesthesia, creation a relief hole in the skin to facilitate placement of an intravascular catheter, application casts and splints, performance of dental extractions, suturing of cutaneous and subcutaneous tissues, and more. The VMB's regulations have also stipulated that an RVT may perform a variety of procedures under indirect supervision of a licensed veterinarian. These procedures include the act of administering controlled substances and performing certain routine animal health care tasks.

In order to practice veterinary medicine in California, an applicant must graduate from a degree program offered by an accredited postsecondary institution or institutions approved by the VMB, pass a national veterinarian examination, and pass an examination provided by the VMB to test the knowledge of the laws and regulations related to the practice of veterinary medicine in California. Comparatively, RVTs registered under the VMB are required to pass a board-approved examination, and provide proof of either completion of a two-year curriculum specializing in veterinary technology, or equivalent experience as approved by the American Association of Veterinary State Boards.

RVT Scope and Direct Orders. In recent years, there have been efforts to expand the role that RVTs play in the veterinary field, not only to address disparities in veterinary care but to offer further career advancement for experienced RVTs that may not have the desire or ability to pursue a full DVM career. The State of Florida is currently considering legislation to recognize a midlevel "veterinary professional associate", and an initiative will be in front of Colorado voters

this fall seeking to establish a similar role. Additionally, the EU's European School for Advanced Veterinary Studies recognizes a midlevel "Certificate of Advanced Studies" in veterinary medicine, which among other tasks, offer certification in soft tissue surgery.

California law allows RVTs who work in state or municipal shelters to perform certain animal healthcare related tasks under the indirect supervision of a veterinarian, so long as the veterinarian has issued written or oral instructions, otherwise known as a "direct order", to the respective RVT specific to the authorized healthcare task. Law expressly prohibits RVTs from performing surgery, diagnosis or prognosis of diseases, or prescribing of drugs, medicine, and appliances. Last year, the Legislature permitted veterinarians to authorize RVTs to act as their agent for purposes of establishing a client relationship or administering certain vaccines with the passage of Senator Cortese's SB 669. Following these efforts, and in light of a recent increase in public demand for transparency regarding public animal services, this bill aims to bring greater clarity to veterinarians and RVTs as to what specifically should be included in an order authorizing care in a municipal shelter setting.

Current Related Legislation.

SB 1233 (Wilk) would, upon appropriation by the Legislature, request the Regents of the University of California and the governing body of Western University of Health Sciences to develop high-quality, high-volume spay and neuter certification programs to be offered as elective coursework to students enrolled in the respective veterinary schools, among other things. *This bill is pending consideration in this committee.*

SB 1459 (Nguyen) requires public animal control agencies and shelters or private animal shelters, as specified, to update any data that they make available on their internet website at least once per month, and requires those agencies and shelters to publish specified information on their internet website, including the number of animals taken in during the prior month and the outcomes for animals over the prior month. *This bill is pending consideration in this committee.*

AB 2012 (Lee) would have required the California Department of Public Health (CDPH) to collect specified data from public animal shelters as part of their annual rabies control activities reporting, and authorized the CDPH to contract out this requirement to a California accredited veterinary school. *This bill was held in the Assembly Committee on Appropriations.*

Prior Related Legislation.

SB 669 (Cortese) Chapter 882, Statutes of 2023 authorized a veterinarian to allow an RVT to act as an agent of the veterinarian for the purpose of establishing the veterinarian-client-patient relationship to administer preventive or prophylactic vaccines or medications for the control or eradication of apparent or anticipated internal or external parasites by satisfying specified criteria.

AB 1535 (Committee on Business and Professions) Chapter 631, Statutes of 2021, enacted various changes to the regulation of veterinarians, RVTs, Veterinary Assistant Controlled Substances Permit (VACSP) holders, veterinary schools, and veterinary premises, stemming from the joint sunset review oversight of the Veterinary Medical Board (Board) by the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions, and Economic Development.

SB 1347 (Galgiani) from 2020 would have expanded exemptions to the practice of veterinary medicine to include specified functions performed at a shelter, as defined, by an employee or volunteer who has obtained specified training. *At the request of the author, this bill's hearing in Assembly Appropriations Committee was canceled and the bill did not move.*

SB 1785 (Hayden) Chapter 752, Statutes of 1998 established, among other things, that the State of California's policy is that no adoptable animal should be euthanized if it can be adopted into a suitable home, and policies promoting the spay and neuter of dogs and cats in the state.

ARGUMENTS IN SUPPORT:

The **Veterinary Medical Board of California (VMB),** which regulates the state's veterinarians, RVTs and veterinary assistants, writes in support of this bill. According to the VMB: "The Board appreciates the clarity SB 1478 would provide to veterinarians and RVTs and believes this bill will encourage consistency and guidance to the veterinary profession."

REGISTERED SUPPORT:

Veterinary Medical Board of California

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: June 25, 2024

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 1468 (Ochoa Bogh) – As Amended May 17, 2024

SENATE VOTE: 38-0

SUBJECT: Healing arts boards: informational and educational materials for prescribers of narcotics: federal "Three Day Rule."

SUMMARY: Requires each board that licenses a prescriber of narcotic drugs to develop informational and educational material regarding the federal Drug Enforcement Administration's "Three Day Rule."

EXISTING LAW:

1) Establishes various practice acts, implemented and enforced by various board within the Department of Consumer Affairs (DCA), to regulate the following health care professionals: physicians and surgeons (Medical Practice Act), dentists (Dental Practice Act), veterinarians (Veterinary Medicine Practice Act), registered nurses, nurse practitioners, and certified nurse-midwives (Nursing Practice Act), physician assistants (Physician Assistant Practice Act), osteopathic physician and surgeons (Osteopathic Medical Practice Act), naturopathic doctors (Naturopathic Doctors Act), optometrists (Optometry Practice Act), doctors of podiatric medicine (Podiatric Act), and pharmacists (Pharmacy Law). (Business and Professions Code (BPC) §§ 500 et seq.)

2) Limits the furnishing of any dangerous drug or device, defined as any drug unsafe for self-use in humans and animals, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor as specified. (BPC § 4059)

3) Establishes the "California Uniform Controlled Substances Act," which regulates the manufacture, possession, use, and distribution of controlled substances. (Health and Safety Code (HSC) § 11000 et seq.)

4) Specifies that no person other than a physician, dentist, podiatrist, or veterinarian, naturopathic doctor, pharmacist, registered nurse, certified nurse-midwife, nurse practitioner physician assistant, naturopathic doctor, optometrist, or an out-of-state prescriber, as specified, shall write or issue a prescription. (HSC § 11150)

5) Requires a prescription for a controlled substance to only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of their professional practice, and subjects any person who knowingly violates this requirement to imprisonment for up to one year, or by a fine not exceeding $20,000, or by both imprisonment and fine. (HSC § 11153)

6) Authorizes a practitioner, who is not specifically registered to conduct a narcotic treatment program, to dispense (but not prescribe) narcotic drugs, in accordance with applicable

Federal, State, and local laws relating to controlled substances, to one person or for one person's use at one time for the purpose of initiating maintenance treatment or detoxification treatment (or both). (Code of Federal Regulations (CFR), Title 21, Chapter 11, § 1306.07(b))

7) Prohibits more than a three-day supply of such medication from being dispensed to the person or for the person's use at one time while arrangements are being made for referral for treatment, and prohibits such emergency treatment from being renewed or extended. (CFR, Title 21, Chapter 11, § 1306.07(b))

8) Defines "practitioner" to mean a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which they practice or do research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research. (CFR, Title 21, Chapter 13, § 802)

THIS BILL:

1) Requires each board that licenses a prescriber of narcotic drugs to develop informational and educational material regarding the federal Drug Enforcement Administration's "Three Day Rule," as specified, in order to ensure prescriber awareness of existing medication-assisted treatment pathways to serve patients with substance use disorder.

2) Requires each board to annually disseminate the informational and educational material developed to each licensed prescriber's email address on file with the board.

3) Requires each board to post the informational and educational material developed on their internet website.

4) Requires the Medical Board of California to annually disseminate the informational and educational material it develops to each acute care hospital in the state. The board may disseminate the informational and educational material to each acute care hospital in the state via email.

5) Allows the departments and boards to consult with other state agencies as necessary to comply with the provisions of this bill.

6) Defines "prescriber" to mean a person authorized to write or issue a prescription pursuant to Health and Safety Code § 11150.

FISCAL EFFECT: According to the Senate Appropriations Committee, unknown, but potentially minor costs for impacted boards to disseminate the required information to their respective licensees electronically and post information on their internet websites (various special funds) and minor and absorbable costs to the Office of Information Services within DCA.

COMMENTS:

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

> [This bill] requires DCA boards that license practitioners who are authorized to dispense narcotic drugs to send a notice to their licensees regarding the DEA's recent changes to the Three Day Rule. The notification must include a summary of the rule and resources for licensees to access if they are interested in learning more. Ensuring that practitioners (not just physicians) are aware they may now dispense a three-day supply of medication at one time will help ease the burdens placed on patients struggling with opioid use disorder, giving them a better chance of success.

Background.

The Substance Abuse and Mental Health Services Administration's (SAMHSA) 2022 National Survey on Drug Use and Health estimates that 3.2% (or 8.9 million) Americans ages 12 or older misused opioids (heroin or prescription pain relievers), and 2.2% (or 6.1 million people) had an opioid use disorder (OUD), in the 12 months prior to the survey.[1] OUD is a treatable chronic health condition, for which medications such as buprenorphine, methadone, and naltrexone, are a safe and effective treatment of OUD.[2] According to SAMHSA, "these medications operate to normalize brain chemistry, block the euphoric effects of alcohol and opioids, relieve physiological cravings, and normalize body functions without the negative and euphoric effects of the substance used" and can be used for a lifetime.[3]

In 1974, the federal Drug Enforcement Agency implemented the Narcotic Addict Treatment Act, which allows specified medical practitioners to administer and dispense certain narcotic medications for the treatment of substance use disorders, so long as they are separately registered to conduct a narcotic treatment program. An "emergency treatment" provision currently allows unregistered practitioners to dispense (but not prescribe) a three-day supply of narcotic drugs at one time to a person for the purpose of initiating maintenance treatment or detoxification treatment (or both). In practice, this allows a patient to receive one day's dose during the emergency treatment and to take the second and third days' doses with them so they do not need to make return visits to the provider. The "Three Day Rule" allows for individuals suffering from acute withdrawal symptoms to receive emergency access to medication-assisted treatment while waiting for long-term treatment. One study of patients who were treated for a non-fatal opioid overdose in a Massachusetts emergency department revealed that 3.7% of patients died of an opioid-related overdose within one year of discharge.[4] A 2015 study concluded that medication-

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[1] Substance Abuse and Mental Health Services Administration. (November 2023). *Key Substance Use and Mental Health Indicators in the United States: Results from the 2022 National Survey on Drug Use and Health.* https://www.samhsa.gov/data/sites/default/files/reports/rpt42731/2022-nsduh-nnr.pdf

[2] U.S. Food & Drug Administration. (2024, May 20). *Prescribe with Confidence.* https://www.fda.gov/drugs/drug-safety-and-availability/prescribe-confidence

[3] Substance Abuse and Mental Health Services Administration. (2024, April 11). *Medications for Substance Use Disorders. https://www.samhsa.gov/medications-substance-use-disorders*

[4] Weiner, S. G., Baker, O., Bernson, D., & Schuur, J. D. (2020). One-Year Mortality of Patients After Emergency Department Treatment for Nonfatal Opioid Overdose. Annals of emergency medicine, 75(1), 13–17. https://doi.org/10.1016/j.annemergmed.2019.04.020

assisted treatment initiated in emergency departments "significantly increased engagement in addiction treatment, reduced self-reported illicit opioid use, and decreased use of inpatient addiction treatment services."[5] However, one study indicated that roughly 1 in 5 U.S. adults with OUD received any medications for OUD in 2021.[6] Furthermore, the researchers found that, in particular, Black adults, women, those whom are unemployed, and residents of nonmetropolitan areas were substantially less likely to receive any medications for OUD.

This bill would require the various boards within the DCA that license physicians, dentists, veterinarians, registered nurses, nurse practitioners, certified nurse-midwives, physician assistants, naturopathic doctors, optometrists, podiatrists, and pharmacists to develop and annually disseminate educational materials related to the "Three Day Rule," with the goal of increasing provider awareness. Additionally, this bill would require the Medical Board of California to provide the materials it develops to acute care hospitals across the state.

Current Related Legislation.

AB 2115 (Haney) would allow a practitioner who is authorized to prescribe a narcotic drug at a clinic registered with the Board of Pharmacy and with any necessary federal agencies to dispense that narcotic drug from the clinic's supply for the purpose of relieving acute withdrawal symptoms when necessary while arrangements are being made for referral to opioid addiction treatment.

Prior Related Legislation.

AB 663 (Haney), Chapter 539, Statutes of 2023, allows county-operated mobile pharmacies to carry and dispense buprenorphine and buprenorphine/naloxone combination medications for the treatment of OUD and authorizes the operation of multiple mobile units within one jurisdiction.

AB 816 (Haney), Chapter 456, Statutes of 2023, authorizes a minor who is 16 years of age or older to consent to replacement narcotic abuse treatment that uses buprenorphine, as specified.

ARGUMENTS IN SUPPORT:

The *California State Board of Pharmacy* writes the following in support:

> California has a long history of fighting to combat the opioid crisis and save lives, including increasing access to opioid antagonists. Opioid use disorder is a chronic, treatable medical condition, but many might not understand the condition or how it can be effectively treated. The Board advocates and supports increased education and

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[5] D'Onofrio, G., O'Connor, P. G., Pantalon, M. V., Chawarski, M. C., Busch, S. H., Owens, P. H., Bernstein, S. L., & Fiellin, D. A. (2015). Emergency Department–Initiated Buprenorphine/Naloxone Treatment for Opioid Dependence: A Randomized Clinical Trial. *JAMA : The Journal of the American Medical Association*, *313*(16), 1636–1644. https://doi.org/10.1001/jama.2015.3474

[6] Jones, C. M., Han, B., Baldwin, G. T., Einstein, E. B., & Compton, W. M. (2023). Use of Medication for Opioid Use Disorder Among Adults With Past-Year Opioid Use Disorder in the US, 2021. *JAMA Network Open*, *6*(8), e2327488–e2327488. https://doi.org/10.1001/jamanetworkopen.2023.27488

engagement amongst health care providers with respect to improving confidence for providers assisting patients with opioid use disorder.

POLICY ISSUES:

As currently written, this bill would require the California Veterinary Medical Board to develop and disseminate materials on the federal "Three Day Rule" to licensed veterinarians. Considering the lack of germaneness to the practice of veterinary medicine, the author may wish to exempt the California Veterinary Medical Board from the bill.

AMENDMENTS:

To exempt the California Veterinary Medical Board, amend the bill as follows:

On page 2, between lines 23 and 24, insert:

(4) The requirements of this subdivision shall not apply to the Veterinary Medical Board.

REGISTERED SUPPORT:

California Opioid Maintenance Providers
California State Board of Pharmacy
Ella Baker Center for Human Rights
Mayor Todd Gloria, City of San Diego
Medical Board of California
Prosecutors Alliance
Smart Justice California, a Project of Tides Advocacy
Vera Institute of Justice

REGISTERED OPPOSITION:

None on file

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