California State Assembly

BUSINESS AND PROFESSIONS

MARC BERMAN
CHAIR

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AGENDA

Tuesday, July 8, 2025
9 a.m. -- 1021 O Street, Room 1100

BILLS HEARD IN FILE ORDER

1.	SB 389*	Ochoa Bogh	Pupil health: individuals with exceptional needs: respiratory services: licensed vocational nurses.
2.	SB 418	Menjivar	Health care coverage: prescription hormone therapy and nondiscrimination.
3.	SB 456	Ashby	Contractors: exemptions: muralists.
4.	SB 641	Ashby	Department of Consumer Affairs and Department of Real Estate: states of emergency: waivers and exemptions.(Urgency)
5.	SB 774	Ashby	Department of Real Estate and the Bureau of Real Estate Appraisers.
6.	SB 775	Ashby	Board of Psychology and Board of Behavioral Sciences.
7.	SB 776	Ashby	Optometry.
8.	SB 777	Richardson	Cemeteries.
9.	SB 790	Cabaldon	Postsecondary education: interstate reciprocity agreements for distance education: out-of-state postsecondary educational institutions.
10.	SB 861*	Business, Professions and Economic Development	Consumer affairs.

** Proposed for Consent*

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 389 (Ochoa Bogh) – As Amended April 24, 2025

NOTE: This bill is double referred and passed the Assembly Education Committee on July 2, 2026, by a vote of 9-0-0.

SENATE VOTE: 34-0

SUBJECT: Pupil health: individuals with exceptional needs: respiratory services: licensed vocational nurses

SUMMARY: Authorizes licensed vocational nurses (LVNs), under the supervision of a credentialed school nurse, to provide basic respiratory care services to individuals with exceptional needs who require specialized physical health care services.

EXISTING LAW:

1) Regulates the practice of vocational nursing under the Vocational Nursing Practice Act and establishes, until January 1, 2029, the Board of Vocational Nursing and Psychiatric Technicians (BVNPT) to administer and enforce the act. (Business and Professions Code (BPC) §§ 2480–2858)

2) Defines the practice of vocational nursing as the performance of services requiring those technical, manual skills acquired by means of a course in an approved school of vocational nursing, or its equivalent, practiced under the direction of a licensed physician and surgeon or registered nurse, or naturopathic doctor. (BPC §§ 2859(a), 2859.1)

3) Defines an LVN within the meaning of the Vocational Nursing Practice Act, as a person who has met all the legal requirements for a license as an LVN in this state and who for compensation or personal profit engages in the practice of vocational nursing,

4) Specifies that the Vocational Nursing Practice Act does not confer authority to practice medicine or surgery, to provide respiratory care services and treatment, or to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or mental or physical condition. (BPC § 2860(a))

5) Authorizes an LVN who has received training and who demonstrates competency satisfactory to their employer may, when directed by a physician and surgeon, perform respiratory tasks and services expressly identified by the Respiratory Care Board of California (RCBC). (BPC §§ 2860(b), 3702.5(a))

6) Requires the BVNPT to share all complaints and information related to investigations involving respiratory care services, as described in the Respiratory Care Practice Act, including, but not limited to, data, findings, interviews, and evidence, with the RCBC. (BPC § 2878.2)

7) Regulates the practice of respiratory care under the Respiratory Care Practice Act and establishes the RCBC to administer and enforce the act. (BPC §§ 3700–3779)

8) Defines the practice of respiratory care 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. (BPC § 3702(a))

9) Specifies that the practice of respiratory care includes all of the following:

   a) Direct and indirect pulmonary care services that are safe, aseptic, preventive, and restorative to the patient. (BPC § 3702(a)(1))

   b) Direct and indirect respiratory care services, including, but not limited to, the administration of pharmacological and diagnostic and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician and surgeon. (BPC § 3702(a)(2))

   c) Observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory care treatment and diagnostic testing and (A) determination of whether such signs, symptoms, reactions, behavior, or general response exhibits abnormal characteristics; (B) implementation based on observed abnormalities of appropriate reporting or referral or respiratory care protocols, or changes in treatment regimen, pursuant to a prescription by a physician and surgeon or the initiation of emergency procedures. (BPC § 3702(a)(3))

   d) The diagnostic and therapeutic use of any of the following, in accordance with the prescription of a physician and surgeon: administration of medical gases, exclusive of general anesthesia; aerosols; humidification; environmental control systems and baromedical therapy; pharmacologic agents related to respiratory care procedures; mechanical or physiological ventilatory support; bronchopulmonary hygiene; cardiopulmonary resuscitation; maintenance of the natural airways; insertion without cutting tissues and maintenance of artificial airways; diagnostic and testing techniques required for implementation of respiratory care protocols; collection of specimens of blood; collection of specimens from the respiratory tract; analysis of blood gases and respiratory secretions. (BPC § 3702(a)(4))

   e) The transcription and implementation of the written and verbal orders of a physician and surgeon pertaining to the practice of respiratory care. (BPC § 3702(a)(5))

10) Specifies that only the RCBC may define or interpret the practice of respiratory care for those licensed pursuant to the Respiratory Care Practice Act, or develop standardized procedures or protocols pursuant to the act, unless authorized by the act or specifically required by state or federal statute. (BPC § 3702.5)

11) Authorizes the RCBC to adopt regulations to further define, interpret, or identify all of the following:

    a) Basic respiratory tasks and services that do not require a respiratory assessment and only require technical, manual skills, or data collection. (BPC § 3702.5(a))

    b) Intermediate respiratory tasks, services, and procedures that require formal respiratory education and training. (BPC § 3702.5(b))

    c) Advanced respiratory tasks, services, and procedures that require supplemental education, training, or additional credentialing consistent with national standards, as applicable. (BPC § 3702.5(c))

12) Prohibits a person from practicing respiratory care or representing themselves to be a respiratory care practitioner in this state without a valid respiratory care license, except as otherwise provided under the Respiratory Care Practice Act. (BPC § 3761(a))

13) Does not prohibit, beginning January 1, 2028, the performance of respiratory care services identified by the RCBC in specified settings by an LVN who satisfies specified training requirements. (BPC § 3765(j))

14) The training requirements for an LVN performing respiratory care services are as follows:

    a) The LVN is licensed as an LVN. (BPC § 3765(j)(1)(A))

    b) The LVN has completed patient-specific training satisfactory to their employer. (BPC § 3765(j)(1)(B))

    c) The LVN holds 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 RCBC. (BPC § 3765(j)(1)(C))

15) The settings that an LVN may perform the respiratory care services identified by the RCBC are as follows:

    a) At a congregate living health facility licensed by the State Department of Public Health CDPH State Department of Public Health that is designated as six beds or fewer. (BPC § 3765(j)(1)(B))

    b) At an adult day health care center licensed by the CDPH. (BPC § 3765(j)(1)(C))

    c) As an employee of a home health agency licensed by the CDPH or an individual nurse provider working in a residential home. (BPC § 3765(j)(1)(D))

    d) At a pediatric day health and respite care facility licensed by the CDPH. (BPC § 3765(j)(1)(E))

e) At a small family home licensed by the State Department of Social Services that is designated as six beds or fewer. (BPC § 3765(j)(1)(F))

f) 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. (BPC § 3765(j)(1)(G))

16) Prohibits a physician, psychiatrist, oculist, dentist, dental hygienist, optometrist, otologist, podiatrist, audiologist, or nurse not employed in that capacity by the CDPH, nor any other person, from being employed or permitted to supervise the health and physical development of pupils unless they hold a services credential with a specialization in health or a valid legacy credential. (Education Code (EDC) § 49422)

17) Authorizes any of the following individuals to assist an individual with exceptional needs who requires specialized physical health care services during the regular schoolday:

a) Qualified persons who possess a services credential with a specialization in health or hold a valid certificate of public health nursing issued by the Board of Registered Nursing. (EDC §§ 49423.5(a)(1), 44267, 44267.5)

b) Qualified designated school personnel trained in the administration of specialized physical health care if they perform those services under the supervision of a credentialed school nurse, public health nurse, or licensed physician and surgeon and the services are determined by the credentialed school nurse or licensed physician and surgeon, in consultation with the physician treating the pupil, to be all of the following:

i) Routine for the pupil. (EDC § 49423.5(a)(2)(A))

ii) Pose little potential harm for the pupil. (EDC § 49423.5(a)(2)(B))

iii) Performed with predictable outcomes, as defined in the individualized education program of the pupil. (EDC § 49423.5(a)(2)(C))

iv) Do not require a nursing assessment, interpretation, or decisionmaking by the designated school personnel. (EDC § 49423.5(a)(2)(D))

THIS BILL:

1) Exempts the performance of suctioning and other basic respiratory tasks and services by LVNs when performed under the supervision of a credentialed school nurse.

2) Adds LVNs performing basic respiratory tasks under the supervision of a credentialed school nurse to the list of providers who may assist an individual with exceptional needs who requires specialized physical health care services during the regular school day.

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 *California School Nurses Organization*. According to the author:

> [This bill] will clarify that the language in Education Code Sec. 49423.5 will continue to apply to LVNs working in educational settings under the supervision of a credentialed school nurse, regardless of future changes to the BPC. Since 2001, qualified designated LVNs in educational settings have been trained to provide suctioning and trach care to students and are competent to continue meeting the healthcare needs of the student body. Clearing up the confusion guarantees that students with special healthcare needs will not experience any disruption in their medical care. [This bill] makes it clear that, regardless of any other laws, LVNs specifically working in a school setting and under the supervision of a credentialed school nurse, can continue to provide these services to students who need them.

Background. LVNs are healthcare practitioners who are licensed to provide nursing services at the direction of physicians or registered nurses. LVNs are authorized to provide "services requiring those technical, manual skills acquired by means of a course in an approved school of vocational nursing, or its equivalent." According to the BVNPT's regulations, "The licensed vocational nurse performs services requiring technical and manual skills which include the following:

(a) Uses and practices basic assessment (data collection), participates in planning, executes interventions in accordance with the care plan or treatment plan, and contributes to evaluation of individualized interventions related to the care plan or treatment plan.

(b) Provides direct patient/client care by which the licensee:

(1) Performs basic nursing services as defined in subdivision (a);

(2) Administers medications;

(3) Applies communication skills for the purpose of patient/client care and education; and

(4) Contributes to the development and implementation of a teaching plan related to self-care for the patient/client.

The LVN scope of practice is silent on respiratory care, which is the evaluation and treatment of patients with breathing difficulties as a result of heart, lung, and other disorders, and includes diagnostic, educational, and rehabilitation services. However, respiratory care is its own licensed profession, and there has been disagreement as to whether LVNs can provide respiratory care services and, if so, which ones.

As a result, the RCBC's 2022 sunset review bill required the RCBC to, in collaboration with the BVNPT, identify which respiratory care services LVNs are authorized to perform, among other requirements. That requirement was not intended to impact LVNs already providing basic

respiratory care services in educational settings, a permission LVNs in these settings have currently had for over two decades. This bill clarifies that LVNs may continue to do so.

Prior Related Legislation. SB 1451 (Ashby), Chapter 481, Statutes of 2024, among other things extended the date for the RCBC to promulgate regulations in consultation with the BVNPT to January 1, 2028.

AB 1722 (Dahle) 2023 authorized a local educational agency (LEA) to employ a licensed vocational nurse (LVN) who is supervised by a credentialed school nurse (CSN) employed by a different LEA until January 1, 2029.

SB 1436 (Roth), Chapter 624, Statutes of 2022, among other things, required the RCBC to promulgate guidance on LVN respiratory care services in collaboration with the BVNPT by January 1, 2025, and authorized LVNs who have received training satisfactory to their employer, and when directed by a physician and surgeon, to perform basic respiratory tasks and services that do not require a respiratory assessment and only require technical, manual skills, or data collection, as identified by the RCBC, if the LVN has received training and demonstrated competency satisfactory to their employer and when directed by a physician and surgeon.

ARGUMENTS IN SUPPORT:

The *California School Nurses Organization* (sponsor) writes in support:

> California's schools serve 5.8 million students across more than a thousand school districts. While only 10-12% of these students have special healthcare needs, approximately 1-3% require suctioning support or tracheostomy care. Unfortunately, the changes made by [SB 1436 (Roth), Chapter 624, Statutes of 2022], which authorized the Respiratory Care Board to promulgate future regulations for LVNs, could unintentionally prevent LVNs from continuing to provide these critical services in the educational setting. Limiting access to trained LVNs could prevent students from receiving the medical care necessary to ensure their right to a free and appropriate education in the least restrictive environment.
>
> [This bill] will provide much-needed clarification by ensuring that the language in Education Code Section 49423.5 continues to apply to LVNs working in educational settings under the supervision of a credentialed school nurse, regardless of any future changes to the BPC. For years, LVNs with proper training and under the supervision of a credentialed school nurse have provided suctioning and tracheostomy care and remain competent in meeting the healthcare needs of students. By clarifying this provision, [this bill] will prevent disruptions in student medical care and ensure that students with special healthcare needs receive uninterrupted support from trained LVNs.

The *BVNPT* writes in support, "The BVNPT values the role it and its licensees play in preparing California for the ever-growing demand for medical care and the nuance this demand creates. This legislation honors the training VNs receive to work under the supervision of a registered nurse that has the appropriate credentials. This bill also removes barriers to education by

facilitating the healthcare of a vulnerable population, children with exceptional needs. Therefore, this bill embodies the mission, vision, and values of BVNPT."

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

REGISTERED SUPPORT:

California School Nurses Organization (sponsor)
Alameda County Office of Education
Association of California School Administrators
Board of Vocational Nursing and Psychiatric Technicians
California County Superintendents
California Teachers Association
California State Council on Developmental Disabilities
Disability Rights California
Easterseals Northern California
Office of the Riverside County Superintendent of Schools
San Bernardino County District Advocates for Better Schools (SANDABS)
San Diego Unified School District
SELPA Administrators of California
Small School Districts Association

REGISTERED OPPOSITION:

There is no opposition on file.

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

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 418 (Menjivar) – As Amended June 23, 2025

NOTE: This bill is double referred and previously passed the Assembly Committee on Health on a 12-2-2 vote.

SENATE VOTE: 28-10

SUBJECT: Health care coverage: prescription hormone therapy and nondiscrimination

SUMMARY: Requires a pharmacist to dispense up to a 12-month supply of a prescription hormone therapy approved by the federal Food and Drug Administration, if requested by the patient and subject to certain exceptions; requires health care service plan contracts and health insurance policies to cover a 12-month supply of prescription hormone therapy; and prohibits discrimination by health plans or health insurers on the basis of race, color, national origin, age, disability, or sex.

EXISTING LAW:

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

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

3) Protects health care practitioners who advocate for appropriate health care for their patients from retaliation. (BPC § 510)

4) Provides that it is unprofessional conduct for a health care practitioner to engage in repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment. (BPC § 725)

5) Prohibits a licensee of a healing arts board from obstructing a patient in obtaining a legally prescribed or ordered drug or device, including self-administered hormonal contraceptives. (BPC § 733)

6) Prohibits a health facility from taking action against a licensee of a healing arts board on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that was based solely on the application of another state's law that interferes with a person's right to receive sensitive services that would be lawful in California. (BPC § 805.9)

7) Prohibits a healing arts board from denying an application for licensure or disciplining a licensee on the basis of a civil judgment, criminal conviction, or disciplinary action in another state that was based solely on the application of another state's law that interferes with a person's right to receive sensitive services that would be lawful in California, regardless of the patient's location. (BPC § 850.1)

8) Establishes the California State Board of Pharmacy (BOP) within the DCA to administer and enforce the Pharmacy Law. (BPC §§ 4000 *et seq.*)

9) Defines "pharmacist" as a person to whom a license has been issued by the BOP which is required for any person to manufacture, compound, furnish, sell, or dispense a dangerous drug or dangerous device, or to dispense or compound a prescription. (BPC § 4036)

10) Authorizes a pharmacist to do all of the following, among other permissible activities, as part of their scope of practice:

    a) Provide consultation, training, and education to patients about drug therapy, disease management, and disease prevention.

    b) Provide professional information, including clinical or pharmacological information, advice, or consultation to other health care professionals, and participate in multidisciplinary review of patient progress, including appropriate access to medical records.

    c) Order and interpret tests for the purpose of monitoring and managing the efficacy and toxicity of drug therapies in coordination with the patient's provider or prescriber.

    d) Administer immunizations pursuant to a protocol with a prescriber.

    e) Furnish emergency contraception drug therapy, self-administered hormonal contraceptives, HIV preexposure and postexposure prophylaxis, and nicotine replacement products, subject to specified requirements.

    f) Administer drugs and biological products that have been ordered by a prescriber.

    (BPC § 4052)

11) Authorizes a pharmacist to initiate and furnish preexposure prophylaxis. (BPC § 4052.02)

12) Authorizes a pharmacist to initiate and furnish postexposure prophylaxis. (BPC § 4052.03)

13) Authorizes a pharmacist to furnish self-administered hormonal contraceptives in accordance with standardized procedures or protocols developed and approved by both the BOP and the Medical Board of California in consultation with the American Congress of Obstetricians and Gynecologists, the California Pharmacists Association, and other appropriate entities, and sets additional requirements for the furnishing of self-administered hormonal contraceptives by pharmacists. (BPC § 4052.3)

14) Authorizes a pharmacist to initiate, adjust, or discontinue drug therapy for a patient under a collaborative practice agreement with any health care provider with appropriate prescriptive authority. (BPC § 4052.6)

15) Authorizes a pharmacist to furnish up to a 12-month supply of an FDA-approved, self-administered hormonal contraceptive at the patient's request under protocols developed by the BOP. (BPC § 4064.5)

16) Authorizes only a licensed physician, dentist, podiatrist, veterinarian, naturopathic doctor, registered nurse, certified nurse-midwife, optometrist, or out-of-state prescriber to write or issue a prescription, subject to their respective scope of practice. (Health and Safety Code (HSC) § 11150)

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

18) Requires prescriptions of controlled substances to comply with specified requirements. (HSC § 11164)

19) Prohibits any person from obtaining or attempting to obtain a prescription for controlled substances by fraud, deceit, misrepresentation, subterfuge, or the concealment of a material fact. (HSC § 11173)

20) Enacts the Knox-Keene Health Care Service Plan Act, which provides for the oversight of health plans under the Department of Health Managed Care (DMHC) and authorizes licensed health care service plans to employ or contract with licensed health care professionals to provide professional services. (HSC §§ 1340 *et seq.*)

21) Prohibits a health plan from taking adverse action on any contract on the basis of a party's race, color, national origin, ancestry, religion, sex, marital status, sexual orientation, or age. (HSC § 1365.5)

22) Enacts the Contraceptive Equity Act of 2022, which requires specified group health care service plan contracts to include coverage for certain forms of contraception, including point-of-sale coverage for over-the-counter FDA-approved contraceptive drugs, devices, and products at in-network pharmacies without cost-sharing or medical management restrictions. (HSC § 1367.25)

23) Provides for the oversight of health insurers by the California Department of Insurance. (Insurance Code §§ 106 *et seq.*)

THIS BILL:

1) Declares that it is the intent of the Legislature to expand the state's existing prescription hormone therapy coverage policy by requiring all health care service plan contracts and health insurance policies, including both commercial and Medi-Cal managed care plan contracts and policies, to cover a 12-month supply of prescription hormone therapy and necessary supplies for self-administration.

2) Requires a pharmacist to dispense, at a patient's request, up to a 12-month supply of an FDA-approved prescription hormone therapy pursuant to a valid prescription that specifies an initial quantity followed by periodic refills, unless any of the following is true:

a) The patient requests a smaller supply.

b) The prescribing provider instructs that the patient must have a smaller supply.

c) The prescribing provider temporarily limits refills to a 90-day supply due to an acute dispensing shortage.

d) The prescription hormone therapy is a controlled substance. If the prescription hormone therapy is a controlled substance, the pharmacist shall dispense the maximum refill allowed under state and federal law to be obtained at one time by the patient.

3) Defines "prescription hormone therapy" as meaning all drugs approved by the FDA that are used to medically suppress, increase, or replace hormones that the body is not producing at intended levels, and the necessary supplies for self-administration.

4) Provides that the bill does not require a provider to prescribe, furnish, or dispense 12 months of prescription hormone therapy at one time.

5) Prohibits a subscriber or enrollee from being excluded from enrollment or participation in, denied the benefits of, or subjected to discrimination by, any licensed health care service plan or any health insurer on the basis of race, color, national origin, age, disability, or sex.

6) Specifies that discrimination on the basis of sex includes, but is not limited to, discrimination on the basis of any of the following:

a) Sex characteristics, including intersex traits.

b) Pregnancy or related conditions.

c) Sexual orientation.

d) Gender identity.

e) Sex stereotypes.

7) Prohibits licensed health care service plans or licensed health insurers from engaging in specified discriminatory acts in providing access to health programs and activities, including arranging for the provision of health care services.

8) Requires both health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after January 1, 2026, to cover up to a 12-month supply of an FDA-approved prescription hormone therapy, and the necessary supplies for self-administration, that is prescribed by a network provider within their scope of practice and dispensed at one time for an enrollee by a provider or pharmacist, or at a location licensed or otherwise authorized to dispense drugs or supplies.

FISCAL EFFECT: Pursuant to Senate 28.8, the prior version of this bill was anticipated to result in negligible state costs.

COMMENTS:

Purpose. This bill is co-sponsored by *California LGBTQ Health and Human Services Network, Equality California, Gender Justice LA, Planned Parenthood Affiliates of California, ¡PODER!, Public Health Advocates, The Translatin@ Coalition, Alliance for TransYouth Rights and TransFamily Support Services,* and *Women's Foundation California*. According to the author:

> Within the first month of the Trump Administration, the president issued Executive Order 14187 which directed the Secretary of Health and Human Services to review the legality of Section 1557 of the ACA, which currently makes it unlawful for any healthcare provider who receives federal funding to refuse to treat an individual based on race, color, national origin, sex, age, or disability. Should this rule be removed, SB 418 would be crucial in supporting multiple vulnerable communities from discrimination. Additionally, in the past couple of years, 70 clinics that provide gender-affirming care have closed, and recently, the largest clinic for this essential care in Los Angeles, the Children's Hospital of Los Angeles, will cease operating on July 22. Essential care includes Hormone Replacement Therapy (HRT), which affects a large community of individuals, such as individuals undergoing cancer, transgender individuals, and individuals experiencing perimenopause, menopause, osteoporosis prevention, or other hormone deficiencies, to treat conditions like hyperthyroidism. As the Trump Administration attempts to roll back these essential protections, California needs to reaffirm these protections. With SB 418, we are taking a proactive step to codify these protections in state law to ensure healthcare access for all in California and provide a 12-month supply of HRT in one lump sum due to the ever-changing nature of the federal administration.

Background.

California State Board of Pharmacy. The BOP is responsible for overseeing the practice of pharmacy in California. The BOP regulates over 50,700 pharmacists, 1,300 advanced practice pharmacists, 4,400 intern pharmacists, and 65,700 pharmacy technicians across 32 licensing programs. In addition to regulating professionals, the BOP oversees and licenses pharmacies, clinics, wholesalers, third-party logistic providers, and automated drug delivery systems.

Gender Affirming Care. In recent years, there has been a growing recognition of the importance of addressing the systemic barriers and discrimination faced by transgender, non-binary, and gender-diverse individuals in accessing appropriate healthcare. Studies have demonstrated that social stigma and a lack of access to support systems has led to healthcare avoidance by transgender individuals;[1] these patients also report a higher rate of negative interactions with healthcare providers.[2] As acceptance of the communities grows, there has also been a corresponding backlash within reactionary conservative movements, leading to an even greater increase in trauma and oppression for those simply seeking to live as their authentic selves.

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[1] Kcomt, Luisa *et al*. "Healthcare avoidance due to anticipated discrimination among transgender people: A call to create trans-affirmative environments." *SSM - population health* vol. 11. 28 May, 2020.
[2] Inman, Elizabeth M. *et al*. "Reports of Negative Interactions with Healthcare Providers among Transgender, Nonbinary, and Gender-Expansive People assigned Female at Birth in the United States." *International journal of environmental research and public health* vol. 20. 31 May, 2023.

One of the central aspects of transgender healthcare is access to gender-affirming care. Gender-affirming care encompasses medical interventions such as prescription hormone therapy, surgical procedures, and mental health support aimed at aligning an individual's physical body with their gender identity. For many transgender individuals, these interventions are not merely elective but are necessary for alleviating gender dysphoria and improving overall well-being. Ensuring access to gender-affirming care is critical for affirming transgender identities and reducing the psychological distress associated with gender dysphoria.

Prescription hormone therapy, sometimes referred to as hormone replacement therapy (HRT), is frequently used to help patients develop physical characteristics that are more consistent with their gender identity. For example, feminizing hormone therapy (typically estrogen with anti-androgens) may be prescribed for transfeminine individuals, or masculinizing hormone therapy (testosterone) for transmasculine individuals. This application of hormone therapy is associated with improved psychological well-being and reduced gender dysphoria. Hormone therapy is also used for other indications, such as treating menopausal symptoms, supporting bone health, or managing endocrine disorders. Hormone therapy is also commonly used in fertility treatment.

Treatments involving prescription hormone therapy are subject to professional oversight by state licensing boards under the DCA pursuant to various healing arts practice acts. Some hormones used in prescription hormone therapy, such as testosterone, are classified as controlled substances under the Controlled Substances Act, and are therefore subject to strict requirements in the prescribing and dispensing of those substances. Other hormones like estrogen, progesterone, and anti-androgens are not controlled substances, but still require a prescription from a licensed health care provider.

Dispensing 12-Month Supplies of Prescriptions. In 2016, the Legislature enacted SB 999 (Pavley), co-sponsored by Planned Parenthood Affiliates of California, the California Family Health Council, and NARAL Pro-Choice America. SB 999 authorized a pharmacist to dispense a 12-month supply of FDA-approved, self-administered hormonal contraceptives, consistent with existing protocols and upon the patient's request. The bill additionally required licensed health plans and health insurers to cover the cost of that 12-month supply.

This bill would enact substantially similar provisions for FDA-approved prescription hormone therapy. If requested by the patient, a pharmacy would be required to dispense up to a 12-month supply of an FDA-approved prescription hormone therapy pursuant to a valid prescription that specifies an initial quantity followed by periodic refills. The requirement would not apply if the patient requests a smaller supply, or if the prescribing provider either instructs that the patient must have a smaller supply or temporarily limits refills to a 90-day supply due to an acute dispensing shortage. In cases where the prescription hormone therapy is a controlled substance, the pharmacist would only be authorized to dispense the maximum refill allowed under state and federal law to be obtained at one time by the patient. The intent of the bill is to increase access to prescription hormone therapy consistent with self-administered hormonal contraceptives.

Antidiscrimination Provisions. In addition to the sections of the bill authorizing pharmacists to dispense 12-month supplies of FDA-approved prescription hormone therapy for purposes of requiring coverage of that treatment, this bill includes provisions aimed at prohibiting health plans and health insurers from engaging in discriminatory behavior toward subscribers, enrollees, or policyholders on the basis of race, color, national origin, age, disability, or sex.

Similar protections were enacted in Section 1557 of the federal Affordable Care Act, which prohibited individuals from being excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of certain protected characteristics under any health program or activity receiving federal financial assistance.

However, on January 28, 2025, President Donald Trump issued Executive Order (EO) 14187, which stated: "It is the policy of the United States that it will not fund, sponsor, promote, assist, or support the so-called 'transition' of a child from one sex to another, and it will rigorously enforce all laws that prohibit or limit these destructive and life-altering procedures." This EO directed the federal Department of Health and Human Services to rescind guidance issued under the Biden Administration on the application of Section 1557 to discrimination based on gender identity and gender expression. The EO served as one component of an elaborate attack by the Trump Administration and its appointees to dehumanize transgender Americans and deny them essential health care.

This bill would make it clear that California law prohibits a health plan or health insurer, in providing access to health programs and activities, including arranging for the provision of health care services, from denying or limiting health care services or otherwise discriminating against individuals based on the basis of the individual's sex assigned at birth, gender identity, or gender. Health plans and health insurers would be prohibited from impeding health care services related to gender transition or other gender-affirming care if such denial, limitation, or restriction results in discrimination on the basis of sex. These provisions, which were further discussed in the Assembly Committee on Health, are intended to support and protect transgender patients in the health care system.

Current Related Legislation. AB 50 (Bonta) would authorize a pharmacist to furnish over-the-counter contraceptives without having to comply with the standardized procedures or protocols that are required for prescription-only hormonal contraceptives. *This bill is pending on the Senate Floor.*

AB 260 (Aguiar-Curry) would prohibit the BOP from disciplining a pharmacist for dispensing mifepristone or similar medication abortion drugs. *This bill is pending in the Senate Committee on Appropriations.*

AB 968 (Boerner) would authorize a pharmacist to furnish nonhormonal contraceptives approved by the FDA in accordance with the standardized procedures or protocols that were developed and approved for self-administered hormonal contraceptives. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

AB 1503 (Berman) is the sunset bill for the BOP. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

Prior Related Legislation. SB 999 (Pavley), Chapter 499, Statutes of 2016 required coverage for up to a 12-month supply of FDA-approved, self-administered hormonal contraceptives and permitted pharmacists to dispense these contraceptives upon a patient's request.

SB 493 (Hernandez), Chapter, 469, Statutes of 2013 increased the scope of practice for pharmacists, including the authority to furnish self-administered hormonal contraception.

ARGUMENTS IN SUPPORT:

Alliance for TransYouth Rights, California LGBTQ Health and Human Services Network, Equality California, Gender Justice LA, Planned Parenthood Affiliates of California, ¡PODER!, Public Health Advocates, The TransLatin@ Coalition, and *Women's Foundation California* write jointly in support of this bill as co-sponsors, arguing that "the Trump administration has spread dangerous misinformation about the safety and efficacy of gender-affirming care, attempted to restrict federal funding for hospitals and clinics that provide this care, and even threatened healthcare providers with criminal penalties simply for providing medically necessary care to transgender youth." The coalition further writes:

> SB 418 responds to these threats by taking proactive steps to protect access to care in California. First, by enshrining Section 1557 of the ACA into California state law – including explicit protections for sexual orientation and gender identity – SB 418 will ensure that California remains a leader in healthcare equity and provide greater legal certainty to healthcare providers and patients, reinforcing that discrimination has no place in California. This provision is critical not only for LGBTQ+ people – particularly transgender individuals – but also for non-English-speaking patients, women seeking reproductive care, people with disabilities, and other communities that have historically faced barriers to healthcare.
>
> Second, SB 418 addresses a growing and urgent barrier to care: disruptions in access to prescription hormone therapy. As political attacks intensify and provider capacity shrinks, many patients are rationing or stockpiling medications to avoid treatment gaps. California already allows pharmacists to dispense a 12-month supply of self-administered hormonal contraceptives under SB 999 (Pavley, Chap. 499, Stats of 2016). SB 418 rightly applies this same model to prescription hormone therapy, helping patients maintain continuity of care while easing pressure on an overstretched health system. These protections will benefit not only transgender individuals, but also patients undergoing cancer treatment, those experiencing menopause, and others managing hormone-related conditions.

ARGUMENTS IN OPPOSITION:

Our Duty opposes this bill, writing: "The reality is what humans have known for time immemorial up until extremely recently: there are two and only two sexes and no human being can change sex. Pretending that humans can change sex and facilitating these procedures—that even Josef Mengele would balk at if he were still alive—is not progress, nor is it kindness. The harms of such interventions are legion, especially when they are performed upon children."

AMENDMENTS:

1) The Assembly Committee on Health, which previously heard this bill, recommended several amendments that were deferred to be taken in this Committee for procedural timing purposes. As described in the Health Committee's analysis: "This bill will be amended to have a sunset date of January 1, 2035 on the prescription hormone therapy provisions. The requirement that Medi-Cal managed care plans cover this therapy will be re-drafted to instead have the Medi-Cal program cover prescription hormone therapy because outpatient prescription drugs are covered through fee-for-service Medi-Cal (and not through Medi-Cal managed care plans) under Governor Newsom's executive order implementing Medi-CalRx."

2) The Assembly Committee on Rules has approved an amendment to add an urgency clause to this bill pursuant to Joint Rule 58.

REGISTERED SUPPORT:

California LGBTQ Health and Human Services Network *(Co-Sponsor)*
Equality California *(Co-Sponsor)*
Gender Justice LA *(Co-Sponsor)*
Planned Parenthood Affiliates of California *(Co-Sponsor)*
¡PODER! *(Co-Sponsor)*
Public Health Advocates *(Co-Sponsor)*
The Translatin@ Coalition *(Co-Sponsor)*
TransFamily Support Services *(Co-Sponsor)*
Women's Foundation California *(Co-Sponsor)*
ACLU California Action
AIDS Healthcare Foundation
Alliance for Children's Rights
Alliance for Transyouth Rights
American Association of University Women - California
APLA Health
Asian Americans Advancing Justice - Southern California
Asian Resources
Bienestar Human Services
California Academy of Child and Adolescent Psychiatry
California Academy of Family Physicians
California Advocates for Nursing Home Reform
California Chapter of the American College of Emergency Physicians
California Coverage & Health Initiatives
California Dental Association
California Latinas for Reproductive Justice
California Pan - Ethnic Health Network
California State Council of Service Employees International Union (SEIU California)
California Women's Law Center
Central Coast Coalition for Inclusive Schools
CFT - a Union of Educators & Classified Professionals, AFT, AFL-CIO
Children Now
Citizens for Choice
City of San Jose
Community Clinic Association of Los Angeles County
County Behavioral Health Directors Association
Courage California
Culver City Democratic Club
Disability Rights California
East Bay Community Law Center
El/La Para Translatinas
Essential Access Health
Feminist Majority Foundation

Flux
Gender Alchemy
Green Policy Initiative
Health Access California
Indivisible CA Statestrong
LGBTQ+ Inclusivity, Visibility, and Empowerment (LIVE)
Los Angeles LGBT Center
Mental Health America of California
Mirror Memoirs, a Project of Community Partners
National Health Law Program
Nourish California
Orange County Equality Coalition
Our Time to ACT
PFLAG Sacramento
Radiant Health Centers
Rainbow Families Action Bay Area
Sacramento LGBT Community Center
San Francisco Marin Medical Society
Southeast Asia Resource Action Center
The Children's Partnership
Transcanwork
Western Center on Law & Poverty
Women's Health Specialists
Youth Leadership Institute

REGISTERED OPPOSITION:

Californians United for Sex-Based Evidence in Policy and Law (CAUSE)
Fieldstead and Company
Our Duty
Real Impact
Women are Real
Women's Declaration International

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

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 456 (Ashby) – As Amended April 2, 2025

NOTE: This bill has been double referred and was previously passed by the Assembly Arts, Entertainment, Sports, and Tourism Committee, 9-0.

SENATE VOTE: 38-0

SUBJECT: Contractors: exemptions: muralists

SUMMARY: Permits an artist to create a mural, as defined, without a license from the Contractors State License Board (CSLB).

EXISTING LAW:

1) Establishes, until January 1, 2025, the CSLB under the Department of Consumer Affairs to implement and enforce the 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 CSLB to appoint a registrar of contractors to be the executive officer and secretary of the CSLB and to carry out all of the administrative duties of the CSLB. (BPC § 7011)

3) Establishes an enforcement division within the CSLB to rigorously enforce the License Law, prohibiting all forms of unlicensed activity and enforcing the obligation to secure the payment of valid and current workers' compensation insurance, as specified. (BPC § 7011.4(a))

4) Specifies that, if upon inspection or investigation, either upon complaint or otherwise, the registrar has probable cause to believe that a person is acting in the capacity of or engaging in the business of a contractor or salesperson within this state without having a license or registration in good standing to so act or engage, and the person is not otherwise exempted from the License Law, the registrar shall issue a citation to that person. Each citation must be in writing and describe with particularity the basis of the citation. Each citation must contain an order of abatement and an assessment of a civil penalty in an amount not less than $200 nor more than $15,000. (BPC § 7028.7)

5) Exempts from the License Law a work or operation on one undertaking or project by one or more contracts if the aggregate price for labor, materials, and all other items is less than $1,000 that work or operation being considered of casual, minor, or inconsequential nature, and the work or operation does not require a building permit. (BPC § 7048)

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

THIS BILL:

1) Exempts from the License Law an artist who draws, paints, applies, executes, restores, or conserves a mural pursuant to an agreement with a person who could legally authorize the work.

2) Defines "mural" as a "unique work of fine art that is protected by copyright, trademark, label, or patent and that is drawn or painted by hand directly onto interior or exterior walls or ceilings, fixtures, or other appurtenances of a building or structure. 'Mural' does not include painted wall signs."

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, no significant state costs anticipated.

COMMENTS:

Purpose. This bill is co-sponsored by *California Arts Advocate*s and the *California League of Cities*. According to the author:

> Murals are powerful tools for transforming neighborhoods. They are placemaking and defining in many cities, like Sacramento. Public art and murals are proven drivers of enhanced community and economic health, attracting tourists, supporting jobs, generating revenue, and improving public health outcomes. However, current law has led to confusion regarding licensing requirements for muralists. [This bill] clarifies that muralists are not subject to licensure and allows them the flexibility to continue sharing their artistic expression throughout our communities.

Background. 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. A license is required for construction projects valued at $1,000 or more, including labor and materials. 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.[2] At the time of this writing, there are more than 241,000 contractors with an active license in California.

Under current law, any person commissioned to create a mural valued at more than $1,000, labor and materials included, is required to have a contractor's license. The CSLB currently issues four

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[1] Contractors State License Board, *Get Licensed to Build Guide*, at 3.

[2] Fees include an original application fee, currently set at $450, and initial license fee, which ranges from $200 to $350. Additionally, licensees are required to pay renewal fees biennially for active licenses, which currently range from $450 to $700, if paid on time, and every four years for inactive licenses, which currently range from $300 to $500, if paid on time. Reactivating a license currently ranges from $450 to $700. Additional fees may also be assessed based on specific requirements for each license classification or type of business entity.

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 43 classifications, including C-61 (Limited Specialty). Each licensing classification (e.g. electrical, drywall, painting, plumbing, roofing, and fencing) specifies the type of contracting work permitted in that classification. A C-33 (Painting and Decorating) license authorizes the licensee to prepare a surface by scraping, sandblasting or other means and apply paint, paper, fabric, varnishes, fillers, adhesives, and the like for purposes of decorating, protecting, fireproofing and waterproofing. While it is within the scope of a C-33 (Painting and Decorating) license to paint a mural on the side of a building, artists may also be adequately licensed with a D-64 non-specialized contractor designation within the C-61 Limited Specialty contractor qualification.[3] Whereas to qualify for a C-33 license an applicant must pass a law and business exam and a trade exam related to painting, applicants for a "D" license are only required to pass the law and business exam. A D-64 is essentially a catch-all license that allows the individual to install, modify, maintain, remove, and repair new products and/or new installations which are not captured in any other license classification.

On July 17, 2023, the CSLB issued a notice reasserting the license requirements for muralists.[4] The notice stated:

> The [CSLB] is issuing a reminder about contractor license requirements as they relate to the installation or creation of artistic works in public or private places.
>
> Some examples might include painting of murals along roadways or on indoor or outdoor walls; bolting, cementing, or welding of metal or iron artistic structures to the ground or to other permanent structures; or installing other durable artwork to indoor or outdoor permanent structures or land.
>
> Whether the ultimate purpose of the work is functional or artistic, such services will require a contractor's license if the activity meets the definition of "contractor" in Business and Professions Code section 7026, which provides, in part:
>
> "…a contractor is any 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, move, wreck or demolish any building, highway, road, parking facility, railroad, excavation or other structure, project, development or improvement, or to do any part thereof, including the erection of scaffolding or other structures or works in connection therewith, or the cleaning of grounds or structures in connection therewith… and whether or not the performance of work herein described involves the addition to, or fabrication into, any structure, project, development or improvement herein described of any material or article of merchandise. …"

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[3] Contractors State License Board, *2011 Winter/Spring Newsletter*, at 9.
[4] Contractors State License Board, *Artistic Works Installation License Requirements*.

> Project owners considering such works are encouraged to contact classifications@cslb.ca.gov for assistance in determining the appropriate contractor license classification for their project.

CLSB staff report that no muralist has been cited for failure to have a contractor license. Nonetheless, according to California Arts Advocates, a co-sponsor of this bill, "many cities have instructed their public arts administrators to halt or delay mural projects due to CSLB's actions, causing issues for projects under Clean CA and other initiatives." This bill would exempt from the License Law an artist who draws, paints, applies, executes, restores, or conserves a mural pursuant to an agreement with a person who could legally authorize the work. This bill defines "mural" as a "unique work of fine art that is protected by copyright, trademark, label, or patent and that is drawn or painted by hand directly onto interior or exterior walls or ceilings, fixtures, or other appurtenances of a building or structure. 'Mural' does not include painted wall signs."

Current Related Legislation. SB 779 (Archuleta) would, in part, increase the minimum civil penalty amounts that the CSLB may assess, effective July 1, 2026, and authorize the CSLB to raise the minimums every five years to account for inflation. *SB 779 is pending in the Assembly Appropriations Committee.*

Prior Related Legislation. AB 2622 (Juan Carrillo), Chapter 240, Statutes of 2024, authorized a person who does not have a contractor's 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, and if specified conditions are met.

ARGUMENTS IN SUPPORT:

The *California Arts Advocates*, as a co-sponsor of this bill, and 758 organizations and individuals, write in support:

> Requiring a contractor's license creates unreasonable barriers for muralists. Obtaining these commercial licenses necessitates working as an apprentice under a licensed contractor and paying annual fees. These requirements not only restrict participation in mural creation but also hinder artistic expression, adding to the challenges artists may already face in the traditional art community.
>
> Furthermore, artistic works are protected under Article 1, Section 8, Clause 8 of the US Constitution and the 1976 Copyright Act. Additionally, the California Arts Preservation Act (CAPA) and the Visual Artists Rights Act (VARA) protect an artist's moral rights, distinguishing their work from commercial painting. Given the fundamental difference between the services provided by muralists and painting contractors, a narrow exception to the state's licensing requirements for muralists is warranted. Painting a mural constitutes expressive first amendment protected speech and should not be subject to licensure.

ARGUMENTS IN OPPOSITION:

In opposition, *Fight Back in Sac* writes:

Why not just exempt all painters from the law? That would solve all of the issues without creating any inequities. What part of the existing law pertaining to painters is served that doesn't serve a purported muralists? The licensing requirement as it is today was obviously enacted to serve the public in some manner, so why does it not also serve the same for "muralists"?

"Muralists" would certainly obtain the same benefits as painters and decorators that the law provides, ie learning about contract laws, liens, payment and liability. The term "Muralist" is so ambiguous in [this bill], that it excludes very little. They apply coatings such as paint, stucco, texturing and other substances, which painters and decorators already do. They prepare the surfaces using sandblasting, pressure washing, priming even special substrates where existing surfaces are not "mural ready". Existing law requires anyone doing pressure washing, stucco or texturing for works over $1,000 to be licensed. Calling oneself a muralist would then evade this requirement

REGISTERED SUPPORT:

1AMprojects
A.B.O. Comix
American Federation of Musicians Local 7
Armory Center for the Arts
Arroyo Grande Public Art
Arts Benicia
Arts Consortium Tulare County's Designated Arts Council
Arts Council for Long Beach
Arts Council for Monterey County
Arts Council of Mendocino County
Arts Council of Placer County
Arts Council Santa Cruz County
Arts for a Better Bay Area
Arts for LA
Arts Orange County
Atrium 916 Creative Innovation Center for Sustainability
Atthowe Fine Art Services
Badger Branding
bardoLA
Beautify Earth
Blue Line Arts
Brush of Creativity Art Lessons & Events
California Arts Advocates (co-sponsor)
California Association of Museums
California Association of Recreation & Park Districts
California Desert Arts Council
California for the Arts
California Outdoor Hospitality Association
California Public Art Administrators
California Special Districts Association

California Travel Association
Calle 24 Latino Cultural District
Cannabis Travel Authority
Casa0101
CasaQ
Celebration Theater
Chilovia + Muraldoctor
City Garage
City of Alameda
City of Belmont
City of Chino Hills
City of El Cerrito
City of Emeryville
City of Foster City
City of Laguna Beach
City of Mountain View
City of Norwalk
City of Pico Rivera
City of Rancho Cordova
City of Redwood City
City of Riverside
City of Simi Valley
City of Thousand Oaks
Community Rejuvenation Project
County of Los Angeles Board of Supervisors
Creative Sonoma
DSTL Arts
Holistic Honu Wellness Center
Honeygirl Signs & Designs
Ink Well Studio
Jaya King Inc.
Jumbo Jibbles
Junior Center of Art and Science
Kim Maxwell Studio
L.Star Murals
League of California Cities (co-sponsor)
Levitt Pavilion Los Angeles
Little Hill Real Estate
Marin Society of Artists
McKinleyville Family Resource Center
Meraki Art
Museum of African American Art
Music Changing Lives
National Independent Venue Association of California
New Canon Theater Co.
Nuri Amanatullah Illustration Design and Murals
Oxnard Performing Arts Center Corp.

Plumas Arts
Pogo Park
Riverside Arts Council
San Benito County Arts Council
San Diego Art Directory
San Diego ART Matters
Sara Daleiden Consulting
ShadowLight Productions
SLATE Contemporary Galley and Art Consulting
Spike Island
St. Bonaventure High School
Stein's Hollow Art Gallery
Stockton Art League
Sustainable Holistic Healing Arts & Activations
SVCreatives
Tahoe Art League
The Center for Cultural Power
The TOaG Quartet
The Unity Council
Timothy Robert Smith Murals
Visit California
Voices of the Community
Weidner CA
West End Arts District
White Hall Arts Academy
685 individuals

REGISTERED OPPOSITION:

Fight Back in Sac

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

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 641 (Ashby) – As Amended April 9, 2025

SENATE VOTE: 39-0

SUBJECT: Department of Consumer Affairs and Department of Real Estate: states of emergency: waivers and exemptions

SUMMARY: Authorizes licensing boards under the Department of Consumer Affairs (DCA) and the Department of Real Estate (DRE) to waive the application of specified laws for licensees and applicants who are impacted by a declared federal, state, or local emergency or whose home or business is located in a disaster area; requires licensees and applicants to provide an email address to their licensing agency; requires the DRE to make determinations regarding any unlawful, unfair, or fraudulent practices by individuals in the wake of a declared emergency or disaster area, including unsolicited offers for real property for an amount less than fair market value; and establishes requirements for debris removal.

EXISTING LAW:

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

2) Enumerates various boards, bureaus, committees, commissions, and programs within the DCA's jurisdiction. (BPC § 101)

3) Defines "board" as also inclusive of "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." (BPC § 22)

4) Provides that each board within the DCA exists as a separate unit, and has the functions of setting standards, holding meetings, conducting examinations, reviewing applications, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following those hearings, insofar as those powers are given by statute to each respective board. (BPC § 108)

5) Requires that the Director of Consumer Affairs be formally notified of and be provided a full opportunity to review all notices of proposed, modified, and final rulemaking actions, and provides the director with the authority to disapprove a proposed rule or regulation within 30 days on the ground that it is injurious to the public health, safety, or welfare. (BPC § 313.1)

6) Enacts the Pharmacy Law to provide for the regulation of the pharmacy profession. (BPC §§ 4000 *et seq.*)

7) Establishes the California State Board of Pharmacy (BOP) within the DCA to administer and enforce the Pharmacy Law. (BPC § 4001)

8) Authorizes the BOP to waive application of any provisions of the Pharmacy Law or its own application during a declared federal, state, or local emergency and for up to 90 days following the termination of that declared emergency. (BPC § 4062)

9) Enacts the Contractors State License Law to provide for the regulation of 45 contractor license classifications that constitute the construction industry. (BPC §§ 7000 *et seq.*)

10) Establishes the Contractors State License Board (CSLB) within the DCA to administer and enforce the Contractors State License Law. (BPC § 7000.5)

11) Enacts the Real Estate Law to provide for the regulation of real estate salespersons, real estate brokers, transactions associated with the purchase or lease new homes or subdivided interests, and the sales of timeshare interests to consumers. (BPC §§ 10000 *et seq*.)

12) Establishes the DRE within the Business, Consumer Services, and Housing Agency to administer and enforce the Real Estate Law. (BPC § 10004)

13) Establishes the California Emergency Services Act (EMS Act) to confer upon the Governor and upon the chief executives and governing bodies of political subdivisions of the state certain emergency powers. (Government Code (GOV) §§ 8550 *et seq.*)

14) Authorizes the Governor to make, amend, and rescind regulations necessary to carry out the provisions of the EMS Act, which have the force and effect of law. (GOV § 8567)

15) Requires the Department of Resources Recycling and Recovery or another state agency tasked to manage contracts for wildfire debris cleanup and removal by the Governor's Office of Emergency Services to prequalify contractors to enter into contracts in communities impacted by wildfires. (Public Resources Code § 40520)

THIS BILL:

1) Declares that it is the intent of the Legislature to provide boards, bureaus, commissions, and regulatory entities within the jurisdiction of the DCA and the DRE with authority to address licensing and enforcement concerns in real time after an emergency is declared, and that the Legislature does not intend for any provision of the bill to require regulations to implement.

2) Defines "disaster area" as an area for which a federal, state, or local emergency or disaster has been declared.

3) Authorizes the DRE or any board under the DCA to waive the application of any provision of law that the board or department is charged with enforcing for licensees and applicants impacted by a declared federal, state, or local emergency or whose home or business is located in a disaster area, that is related to any of the following:

   a) Examination eligibility and timing requirements.

   b) Licensure renewal deadlines.

   c) Continuing education completion deadlines.

   d) License display requirements.

   e) Fee submission timing requirements.

   f) Delinquency fees.

4) Limits the above waiver authority to the duration of a declared federal, state, or local emergency or disaster and up to either one year after the end of the declared emergency or disaster or a longer period of time as determined by the board or the DRE.

5) Exempts licensees impacted by a declared emergency or disaster, or whose home or business is located in an area for which an emergency or disaster has been declared, from paying a fee for a duplicate copy of their license or certificate.

6) Exempts a licensee whose home or business mailing address is located in an area for which a federal, state, or local emergency or disaster area is declared from the penalty for failing to notify their licensing agency within 30 days of a change in their mailing address.

7) Requires every applicant for licensure and every licensee of the DRE or a board under the DCA to provide their licensing agency with an email address.

8) Specifies the licenses or classifications that a contractor must have to engage in debris removal, but allows for the CSLB registrar to authorize additional classifications to perform debris removal, including muck out services, during a declared federal, state, or local emergency or for a declared disaster area, provided the contractor has passed an approved hazardous substance certification examination and complies with hazardous waste operations and emergency response requirements.

9) Requires the Commissioner of DRE to do both of the following immediately upon the declaration of a federal, state, or local emergency or disaster area:

    a) Expeditiously, and until one year following the end of the emergency, determine the nature and scope of any unlawful, unfair, or fraudulent practices employed by any individual or entity seeking to take advantage of property owners in the wake of the emergency.

    b) Provide notice to the public of the nature of these practices, their rights under the law, relevant resources that may be available, and contact information for authorities to whom violations may be reported.

10) Authorizes the Commissioner of DRE to suspend or revoke the real estate license of a person who makes an unsolicited offer to an owner of real property, on their own behalf or on behalf of a client, to purchase or otherwise acquire any interest in the real property for an amount less than the fair market value of the property or interest in the property when that property is located in an area included in a declared federal, state, or local emergency or disaster area, for the duration of the declared emergency and for one year thereafter.

11) Additionally provides that any person who engages in the above activity, including as an officer, director, agent, or employee of a corporation, is guilty of a misdemeanor punishable by a fine of up to $10,000, by imprisonment for up to six months, or both.

12) Declares that in order to support licensed professionals impacted by the disasters caused by the Palisades and Eaton wildfires, it is necessary that the bill take effect immediately as an urgency measure.

FISCAL EFFECT: According to the Senate Committee on Appropriations, mostly minor and absorbable workload to boards within the DCA, though potentially significant and unabsorbable workload in the event of a state of emergency impacting a large licensing population; indeterminable fiscal impact to the DCA's Office of Information Services; unknown, potentially significant costs to the DRE dependent on the frequency and scope of future disasters; unknown, potentially significant costs to counties in the hundreds of thousands of dollars to low millions of dollars to counties for increased incarceration costs; and unknown, potentially significant cost pressure to the state funded trial court system to adjudicate the crime created by this bill.

COMMENTS:

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

> Licensing practice laws establish requirements for individuals to meet in order to maintain their livelihood, most especially as they rebuild their lives and climb back up after facing tragedy like so many experienced early this year. When disaster strikes, the last thing someone should have to worry about is submitting the proper fee for a replacement license. It should be automatic that applicants and licensed professionals are provided extended timeframes to meet the many, often onerous, requirements they have to meet just to do their job. By granting the authority for licensing programs to waive certain requirements for individuals in a disaster area and during a state of emergency, SB 641 will provide a small measure of relief as they begin to move forward and successfully back into their profession. SB 641 also builds on lessons learned in other disasters to protect property owners from predatory land grabs. Neighborhoods in the wake of fires have already experienced enough and we should ensure swift action is taken to prohibit this behavior and enforce against those who engage in it. It's also critical that we have baseline measures of quality built into the standards for the companies engaging in private debris removal and cleanup – requiring proper hazardous waste removal training will ensure continued safety in these impacted areas.

Background.

Department of Consumer Affairs. The DCA consists of 36 distinct regulatory entities, including 26 boards, seven bureaus, one committee, one commission, and one program. In total, the DCA oversees more than 3.4 million licensees across 280 license types falling within the respective jurisdiction of each board, bureau, or other licensing entity, ranging from physicians licensed by the Medical Board of California to hairstylists licensed by the California Board of Barbering and Cosmetology. The DCA also administers the Arbitration Certification Program, which certifies and monitors third-party arbitration programs to ensure compliance with vehicle warranty laws.

The DCA primarily exists to provide administrative support services to the various individual boards, bureaus, and other entities that fund the department through a pro rata assessment against revenue received from licensing and regulatory fees. Support services provided by the DCA include human resources, information technology, investigations, communications, professional examinations, training, strategic planning, and fiscal operations. In addition to providing support services to individual licensing entities, statute requires the DCA to receive complaints from consumers and to transmit any valid complaints to the local, state, or federal agency that is appropriate to assist the complainant. The DCA's Consumer Information Center (CIC) includes a Call Center and a Correspondence Unit, which receives and responds to correspondence directly from consumers. DCA also produces guidance to both consumers and licensees.

Department of Real Estate. The DRE is responsible for enforcing the Real Estate Law, the Subdivided Lands Act, and the Vacation Ownership and Timeshare Act of 2004. First enacted in 1917, the Real Estate Law provides for real estate licensing in California. The Real Estate Law requires licensure of persons who represent sellers and buyers of real property or business opportunities; represent tenants and landlords in the rental or leasing of real property or business opportunities; assist persons involved in land transactions with the federal or state government; solicit for, negotiate, or service mortgage loans; or represent buyers and sellers in exchanges of real property sales contracts and provides services to those who are contract holders.

The Subdivided Lands Act protects consumers who purchase or lease new homes or subdivided interests in California. The law requires the developer of subdivided interests to seek and obtain a Subdivision Public Report from the DRE. This report is designed by law to protect the public from fraud and misrepresentation by documenting the developer's commitments to consumers. Correspondingly, the Vacation Ownership and Timeshare Act of 2004 provides parallel consumer protections relating to the sales of timeshare interests to consumers in California.

The DRE has five program-focused divisions in place to satisfy its statutory obligations: Enforcement, Audits, Legal, Licensing, and Subdivisions. Additionally, the DRE participates in the Association of Real Estate License Law Officials, which is an international organization comprised of government agencies and other organizations charged with regulating licensing real estate practice and enforcing real estate law, and the American Association of Residential Mortgage Regulators, which promotes the exchange of information and education concerning the licensing, supervision, and regulation of the residential mortgage industry. The DRE's Enforcement Division staff regularly participates in task force meetings with district attorney offices, local real estate associations, and law enforcement agencies to discuss real estate fraud, mortgage fraud, and financial/economic crimes, including wire fraud.

Waiver of Laws During an Emergency or Disaster. Pursuant to the EMS Act, the Governor is authorized to make, amend, and rescind orders and regulations necessary to carry out the provisions of the Act, which have the force and effect of law. The EMS Act is invoked during a state of emergency, which is defined as follows:

> [The] duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions such as air pollution, fire, flood, storm, epidemic, riot, drought, cyberterrorism, sudden and severe energy shortage, electromagnetic pulse attack, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake, or other conditions, other than conditions resulting from a labor controversy or conditions causing a "state of war emergency," which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat, or with respect to regulated energy utilities, a sudden and severe energy shortage requires extraordinary measures beyond the authority vested in the Public Utilities Commission.

Emergencies can be declared at the federal, state, or local level depending on their scope and nature. For example, when COVID-19 was first formally recognized as a serious pandemic, the State of California declared a state emergency on March 4, 2020, followed by a federal declaration of a national emergency on March 13, 2020. Numerous cities and counties additionally declared local emergencies.

On March 30, 2020, Governor Gavin Newsom issued Executive Order N-39-20, which created a new process for the waiver of certain requirements for licensure as authorized under the EMS Act. The order authorized the Director of DCA, "to the extent necessary and only for the duration of the declared emergency," to waive professional licensing requirements and amend scopes of practice, including "the examination, education, experience, and training requirements necessary to obtain and maintain licensure, and requirements governing the practice and permissible activities for licensees." These waivers were initially limited to licensed health care professionals. Either members of the public or the boards themselves were able to submit requests for waivers to the Director of Consumer Affairs.

Through the Governor's waiver process, the Director of Consumer Affairs waived statutes limiting the number of continuing education hours that may be completed through computer-assisted instruction and limiting such instruction to those that allow participants to concurrently interact with instructors or presenters while they observe the courses. The Director additionally waived statutes requiring individuals to complete education or examination requirements as a condition of license renewal. Additionally, the Director issued waivers expanding the scopes of practice for various health professions to administer the COVID-19 vaccine. Overall, approximately 200 waivers related to professional licensing and related regulatory requirements during the COVID-19 state of emergency, many of which were amended or extended.

In addition to the authority granted to the Governor under the EMS Act, statute provides other mechanisms for waiving laws during an emergency. For example, the BOP has its own statutory authority to "waive application of any provisions of [the Pharmacy Law] or the regulations adopted pursuant to it if, in the Board's opinion, the waiver will aid in the protection of public health or the provision of patient care." Following the Governor's emergency declaration, the BOP established its own waiver request process through which licensees and members of the public could request a waiver of law. Between March 2020 and November 2020, the BOP granted approximately 300 site-specific waivers along with 21 broad waivers, which typically included conditions for use and recordkeeping requirements to demonstrate compliance with the conditions.

In addition to the BOP's actions during the COVID-19 pandemic, the BOP frequently uses its authority to waive provisions of law during natural disasters. For example, during devastating wildfires such as the Tubbs Fire in 2017, the Camp Fire in 2018, and the Dixie Fire in 2021, the BOP issued waivers allowing pharmacists to provide emergency refills, temporary relocation of pharmacies, and mobile pharmacy operations. Similar waivers have been granted during large earthquakes, severe storms and floods, and prolonged power outages. The Pharmacy Law only allows waivers to be granted during a declared emergency; however, the BOP is given discretion to maintain a waiver following the termination of the emergency for up to 90 days "if, in the Board's opinion, the continued waiver will aid in the protection of the public health or in the provision of patient care."

This bill would allow every board under the DCA, as well as the DRE, to institute its own waiver process similar to what was established pursuant to the Governor's executive order during the COVID-19 pandemic and similar to the authority granted to the BOP. The bill would allow licensing agencies to "waive the application of any provision of law that the board or department is charged with enforcing for licensees and applicants impacted by a declared federal, state, or local emergency or whose home or business is located in a disaster area." Waivers authorized under the bill would be limited to laws related to the following topics:

1) Examination eligibility and timing requirements.

2) Licensure renewal deadlines.

3) Continuing education completion deadlines.

4) License display requirements.

5) Fee submission timing requirements.

6) Delinquency fees.

Waivers granted under this bill would extend through the duration of the declared emergency or disaster until either one year after the end of the declared emergency or disaster or a longer period of time as determined by the board or the Department of Real Estate. Additionally, this bill would specifically exempt licensees impacted by a declared emergency or disaster from laws requiring the payment of a fee to replace a previously issued license or certificate, as well as laws establishing penalties for failing to notify a licensing agency about a change in address. Under the waivers authorized by this bill, the DRE and boards within the DCA would be able to more quickly and specifically act during future emergencies, whether they are public health pandemics or natural disasters.

Predatory Real Estate Activity. During the wildfires that ravaged Southern California in 2025, reports were published describing predatory activity by real estate licensees and other individuals seeking to take advantage of disaster victims. On January 14, 2025, Governor Gavin Newsom signed Executive Order N-7-25, which included statements that the Governor had "personally heard first-hand from homeowners, faith leaders, and business property owners who, while these fires still burn, received unsolicited offers to purchase their property, which in many instances represent their life savings and family legacies, for amounts far less than fair market value prior to this emergency." The Executive Order further acknowledged that "all those impacted by these fires, and especially property owners who have lost their family home or business, or even their entire neighborhood, may be traumatized, uncertain, and especially vulnerable to exploitative practices of unscrupulous individuals who seek to profit from this disaster."

Under the authority of the EMS Act, the Governor's Executive Order provided that to prohibit unsolicited offers to an owner of real property located in the specific areas impacted by the wildfires to purchase or otherwise acquire any interest in the real property for an amount less than the fair market value of the property or interest in the property on January 6, 2025. The Executive Order additionally required the DRE to "expeditiously determine the nature and scope of any unlawful, unfair, or fraudulent practices employed by any individual or entity seeking to take advantage of property owners in the wake of this emergency, and shall provide notice to the public of the nature of these practices, their rights under the law, relevant resources that may be available, and contact information for authorities to whom violations may be reported." The Executive Order was initially made valid for three months but was subsequently extended.

This bill would codify the substance of the Governor's Executive Order and make this form of predatory activity professional misconduct for a licensee of the DRE and criminal misconduct for any person. The bill would additionally codify the DRE's responsibility for determining the nature and scope of any unlawful, unfair, or fraudulent practices. Once codified, these orders would become standard for any future emergency, protecting California disaster victims.

Debris Removal. Pursuant to the Public Resources Code, the Department of Resources Recycling and Recovery is required to prequalify contractors to enter into contracts in communities impacted by wildfires. These contracts may be entered into before the onset of major damage in order to retain the contractor in readiness to respond to incidents as needed. Statute further provides that work performed under the contract must be limited to preparation, removal, transport, and recycling or disposal of metals, ash, debris, concrete foundations and flatwork, potentially dangerous trees, and contaminated soil on residential and public properties included in the structural debris removal function.

In the wake of the 2025 wildfires in Los Angeles, Governor Gavin Newsom signed Executive Order N-5-25, which described "the urgent need to expeditiously develop a comprehensive plan for debris removal and execute the contracts and take other actions necessary to expeditiously implement that plan." With federal assistance, debris removal teams began work to clean up household hazardous waste, including paint, ammunition, pesticides, propane tanks, and batteries in both conventional and electric vehicles. The Governor's Executive Order directed state agencies "to develop a comprehensive plan for expeditiously removing debris from impacted properties to allow the rebuilding process to commence as quickly as possible, including the prompt execution of contracts with debris removal vendors with a proven track record of successfully delivering services on a timely and cost-effective basis."

This bill would clarify which contractors are authorized to engage in debris removal in future emergencies and disasters. Notwithstanding the Public Resources Code, contractors with specified licenses or classifications would be allowed to engage in debris removal, and during a declared federal, state, or local emergency or for a declared disaster area, the CSLB would be allowed to authorize additional classifications to perform debris removal, including muck out services, based on the needs of the declared emergency or disaster. This language is intended to assist the state in establishing a clear debris removal plan during future disasters like the 2025 Southern California wildfires.

Current Related Legislation. AB 529 (Ahrens) would increase the existing statutory duration for which the BOP may extend waivers of pharmacy laws and regulations beyond the termination of a declared emergency from 90 days to 120 days. *This bill is pending on the Senate Floor.*

Prior Related Legislation. SB 569 (Stone), Chapter 705, Statutes of 2019 provided the BOP with additional discretion to authorize pharmacists to fill prescriptions for controlled substances regardless of whether there is a valid prescription form for that drug during a declared emergency.

ARGUMENTS IN SUPPORT:

The *Contractors State License Board* (CSLB) supports this bill, writing: "In the aftermath of a natural disaster, safe debris removal and disposal is critical to avoid additional health and environmental problems. SB 641 designates which licensing classifications have sufficient experience and training to assist with debris removal on a case-by-case basis during a declared federal, state, or local emergency if needed. The bill also allows CSLB to safely waive certain licensing requirements to support applicants and licensees during a state of emergency. SB 641 will enhance CSLB's ability to quickly navigate recovery needs and provide expedient assistance for applicants, licensees, and consumers."

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

POLICY ISSUES:

Uncodified language in this bill declares that "the Legislature does not intend for any provision of this bill to require regulations to implement." While this language can likely be viewed as aspirational and not enforceable as a legal requirement, it may nevertheless be inappropriate to presuppose whether licensing agencies within the DCA or the DRE should engage in rulemaking to effectuate a waiver process. The Assembly Select Committee on Regulatory Authority has been established to engage in relevant discussions. As this bill moves forward, the author should consider removing this intent language to more clearly defer to the existing process for determining the need for formal regulations pursuant to the Administrative Procedures Act.

REGISTERED SUPPORT:

California Association of Licensed Investigators
California Board of Psychology
California State Board of Pharmacy
Contractors State License Board
Osteopathic Medical Board of California

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 774 (Ashby) – As Amended July 2, 2025

SENATE VOTE: 38-0

SUBJECT: Department of Real Estate and the Bureau of Real Estate Appraisers: Bureau of Automotive Repair

SUMMARY: Extends the sunset dates for the Department of Real Estate (DRE or Department) and the Bureau of Real Estate Appraisers (BREA or Bureau) to January 1, 2030, and makes additional technical changes, statutory improvements, and policy reforms to each entity's respective practice act in response to issues raised during the sunset review oversight process.

EXISTING LAW:

1) Establishes the Real Estate Law to provide for regulation of real estate salespersons, real estate brokers, transactions associated with the purchase or lease new homes or subdivided interests, and the sales of timeshare interests to consumers in California. (Business and Professions Code (BPC) §§ 10000 *et seq*.)

2) Establishes the Department of Real Estate to administer the Real Estate Law. (BPC § 10004)

3) Establishes Division 4, part 2, within the BPC to provide for Department administration of the Subdivided Lands Act and the Vacation Ownership and Timeshare Act of 2004. (BPC §§ 11000 *et seq.* and 11240 *et seq*.)

4) Requires the DRE to compile information on military, veteran, and spouse licensure into an annual report for the Legislature and must include all of the following:

   a) The number of applications for expedited licenses submitted by veterans and active duty spouses.

   b) The number of licenses issued and denied per calendar year; and the average length of time between application and issuance of licenses per license type.

   (BPC § 10151.3)

5) Requires the Commissioner of the DRE to ascertain by written examination that an applicant, and in case of a corporation applicant for a real estate broker's license that each officer, or agent who applies to act as a real estate licensee, has all of the following:

   a) Appropriate knowledge of the English language, including reading, writing, and spelling and of arithmetical computations common to real estate and business opportunity practices;

b) An understanding of the principles of real estate and business opportunity conveyancing, the general purposes and general legal effect of agency contracts, deposit receipts, deeds, mortgages, deeds of trust, chattel mortgages, bills of sale, land contracts of sale and leases, and of the principles of business and land economics and appraisals;

c) A general and fair understanding of the obligations between principal and agent, of the principles of real estate and business opportunity practice and the canons of business ethics pertaining thereto, of relevant provisions of the Real Estate Law and its implementing regulations.

(BPC § 10153)

6) Establishes that, should the commissioner pay from the Consumer Recovery Account any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license shall be automatically suspended upon the date of payment. (BPC § 10475)

7) Establishes the Real Estate Appraisers' Licensing and Certification Law (Appraisers' Law) to regulate real estate appraisers. (BPC §§ 11300 *et seq.*)

8) Establishes the Bureau to administer and enforce the Appraisers' Law and sets legislative review to be performed as if the Appraisers' Law were to repeal on January 1, 2026. (BPC § 11301)

9) Provides for the regulation of automotive repair under the Automotive Repair Act, which outlines the licensure requirements, scope of practice, and responsibilities of individuals who, for compensation, engage in the business of repairing or diagnosing malfunctions of motor vehicles. (BPC §§ 9880 *et seq.*)

10) Establishes the Bureau of Automotive Repair (BAR) under the DCA for purposes of administering and enforcing the Automotive Repair Act. (BPC § 9882)

11) Authorizes the Director of the BAR to include in the citation system a process for informal review of and recommendation on citations, including establishment of an informal citation conference conducted by a panel of independent representatives. (BPC § 9882(a)(2)(A))

12) Authorizes the Director of the BAR to include in the citation system a process for an automotive repair dealer to complete remedial training to prevent disclosure of the citation on the internet until July 1, 2026. (BPC § 9882(a)(2)(B))

THIS BILL:

1) Extends the sunset dates for both the DRE and the BREA until January 1, 2030.

2) Requires that the annual report submitted by the DRE to the Legislature regarding military license data include the number of applicants who request to apply military education, training, or experience towards meeting licensure requirements per license type, and how many requests were accepted by the DRE.

3) Requires the DRE to inquire about specified military service information as part of its application for licensure, and post information on its website about military qualifications for licensure.

4) Grants the Real Estate Commissioner authority to grant payment to an individual pursuant to the Consumer Recovery Account if the final judgement was established by proof by preponderance of the evidence or a higher standard of proof.

5) Clarifies that the automatic suspension of the respective license upon the date of payment from the Consumer Recovery Account would still be conditioned on the final judgment being established by proof by clear and convincing evidence.

6) Adds specific language regarding fingerprinting requirements for various DRE applicants and licensees.

7) Provides that a licensee's email address shall not be disclosed as a public record pursuant to the California Public Records Act, unless required by an order of a court of competent jurisdiction.

8) Extends the BAR's citation remedial training program to January 1, 2028.

9) Strikes outdated and non-operative statute throughout the Real Estate Law.

10) Makes various, non-substantive technical changes to the Real Estate Law.

FISCAL EFFECT: According to the Senate Appropriations Committee, the prior version of this bill had the following fiscal analysis:

The 2025-26 Governor's Budget provides:

1) Approximately $69.92 million (Real Estate Fund and other special funds) and 386.7 positions to support the continued operation of the DRE's licensing and enforcement activities.

2) Approximately $6.67 million (Real Estate Appraisers Regulation Fund) and 28.8 positions to support the continued operation of the BREA's licensing and enforcement activities.

The DRE and BREA note the bill does not create any additional fiscal impacts.

COMMENTS:

Purpose. This bill is one of three sunset review bills sponsored by the Chair of the Senate Business, Professions, and Economic Development Committee. According to the author,

> This bill is necessary to make changes to the Department of Real Estate and the Bureau of Real Estate Appraisers to improve oversight of the regulated professions under their jurisdiction.

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 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 four sunset review bills authored by the Assembly Committee on Business and Professions and three sunset review bills authored by the Chair of the Senate Business, Professions and Economic Development Committee.

Department of Real Estate. In 1917, the Legislature passed the Real Estate Law and created the California Real Estate Commission. Following a lengthy constitutional challenge in the courts, the 1919 Realty Act created the State Real Estate Department, which became operational in November of 1919. The current Department of Real Estate (DRE or Department), the successor entity of that earlier department, is empowered to enforce the Real Estate Law (Business and Professions Code (BPC) § 10000 et seq.), the Subdivided Lands Act (BPC § 11000 et seq.), and the Vacation Ownership and Timeshare Act of 2004 (BPC § 11240 et seq.). DRE regulations are found in Title 10 of the California Code of Regulations (10 CCR), § 2705 et seq.

The Real Estate Law requires licensure of persons who: 1) represent sellers and buyers of real property or business opportunities; 2) represent tenants and landlords in the rental or leasing of real property or business opportunities; 3) assist persons involved in land transactions with the federal or state government; 4) solicit for, negotiate, or service mortgage loans; and 5) represent buyers and sellers in exchanges of real property sales contracts and provides services to those who are contract holders.

The Subdivided Lands Act protects consumers who purchase or lease new homes or subdivided interests in California. This law requires the developer of subdivided interests to seek and obtain a Subdivision Public Report from DRE. This report is designed by law to protect the public from fraud and misrepresentation by documenting the developer's commitments to consumers. The Vacation Ownership and Timeshare Act of 2004 provides parallel consumer protections relating to the sales of timeshare interests to consumers in California.

The Department's mission is:

To safeguard and promote the public interests in real estate matters through licensure, regulation, education, and enforcement.

To achieve this mission, according to its 2024 Sunset Review Report the DRE licenses 425,133 persons in California: 293,565 real estate salespersons and 131,568 real estate brokers, including corporate brokers and more than 26,000 mortgage loan originators.

Bureau of Real Estate Appraisers. In 1989, the United States Congress passed Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA), requiring all states to license and certify real estate appraisers who conduct appraisals for federally related transactions, which are sale transactions involving a federal agency in either the primary or secondary mortgage market. In response to the federal mandate, the California Legislature enacted the Real Estate Appraisers Licensing and Certification Law in 1990 (AB 527, Chapter 491, Statutes of 1990). The Office of Real Estate Appraisers (OREA) was established within the Business, Transportation and Housing Agency, and charged with developing and implementing a real estate appraiser licensing and certification program compliant with the federal mandate. In 2012, Governor Brown submitted a reorganization plan to the Legislature. As a result, on July 1, 2013, OREA became the Bureau of Real Estate Appraisers (BREA, or Bureau) within DCA. The Bureau, entirely funded by licensing fees, is a single program comprised of two core components: licensing and enforcement.

The Bureau issues trainee licenses, residential licenses, certified residential licenses, and certified general licenses. The Licensing Unit implements the minimum requirements for licensure, according to criteria established by the federal government and California law, to ensure that only qualified persons are licensed to conduct appraisals in federally related real estate transactions. Applicants must meet minimum education and experience requirements and successfully complete a nationally approved examination. The Licensing Unit also registers Appraisal Management Companies (AMCs) in compliance with California law.

The Enforcement Unit investigates the background of applicants, licensees, and AMC registrants to ensure they meet the standards for licensure. The Enforcement Unit also investigates complaints of violations of California law and national appraisal standards filed against licensed appraisers and registered AMCs.

The BREA is responsible for the accreditation of educational courses and providers for real estate appraisers. The BREA has reviewed and approved over 1,800 pre-licensing and continuing education courses. In addition to the real estate appraisal related courses offered by California's community colleges and universities, the Bureau accredits approximately 70 proprietary schools that provide appraisal education.

The current Bureau's mission statement, as stated in its 2020-25 Strategic Plan, is as follows:

Safeguard public trust by promoting professionalism in the real estate appraisal industry through licensing, education, and enforcement.

To achieve this mission, the BREA issues trainee, residential, certified residential, and certified general licenses to about 8,800 real estate appraisers and appraisal management companies.

DRE SUNSET ISSUES FOR CONSIDERATION:

As part of the DRE'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 DRE's "2024 California Department of Real Estate Sunset Review Report" submitted to the Legislature in January. 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 DRE regarding issues raised in their report. The background paper is available on the Committee's website: https://abp.assembly.ca.gov/jointsunsethearings. On April 3rd, the DRE responded to these recommendations and presented committee staff with potential reforms and statutory language to address various issues. As further detailed below, this bill addresses certain issues discussed in these reports and responses:

1) *Issue #1 – Data Tracking.* The staff background paper for the Department's previous sunset review stated in the New Issues section, "DRE does not track applicants offered military education, training, or experience toward meeting licensing or credentialing requirements. It is possible that some military experience will qualify as equivalent to the two years of salesperson experience necessary for the broker examination, but that information is reviewed on a case-by-case basis." The Committees made a recommendation that, "DRE should inform the Committees of why it does not track applicants offered military education, training, or experience toward meeting licensing or credentialing requirements."

   In its response, DRE stated, "DRE has not received any broker exam applications where the applicant specifically requested to receive credit for military education, training, or experience as equivalent experience in lieu of the statutorily required two years' experience as a licensed salesperson. Should DRE receive such a request, it would be reviewed in accordance with the applicable statutes and regulations, and if deemed acceptable, the education and/or experience would be applied towards licensing requirements, and this information would be tracked in our database."

   In its 2025 sunset report update to prior issues, the Bureau provided the same response, nearly verbatim. Unfortunately, the lack of reported military data is not an anomaly. The Department also did not report multiple data sets and in some cases, used incorrect tables. Budget, licensing, and enforcement data are integral to the Committees' ability to evaluate program performance.

   It is reasonable that DRE may have different reporting capability than the Department of Consumer Affairs (DCA). Additionally, DRE's transfer from a bureau under the DCA to a standalone department may have left gaps in authority and reporting requirements. However, these data were requested during the Department's previous sunset review. At that time, the Department gave the same responses as above, but since that time, has not made any adjustments to its processes so that data could be provided and has not identified gaps in law.

   Staff Recommendation in the Background Paper: DRE should inform the Committees when it plans to track applicants who offer military education, training, or experience toward meeting licensing or credentialing requirements. The Department should update its business practices to allow data collection and as part of its business modernization project, implement data reporting capability to meet requirements of sunset review. The Department should also

work with the Committees before the next sunset review to identify data that are not applicable to DRE and those that should be reported.

DRE Response to the Background Paper: The Department has the authority to accept relevant military service, education, or training toward meeting licensing requirements. As there is currently no requirement for applicants to identify if the submitted experience is related to military service, the Department does not separately track this type of experience nor the number of applicants who offered military education, training, or experience toward meeting licensing requirements. Going forward, in an effort to better track military experience used by applicants for licensure, the Department will add this category to its data tracking system so that staff can identify and document this information. The Department expects this functionality to be available within the next fiscal year.

The Department acknowledges the concerns regarding the availability of data and is taking decisive action to improve its data reporting. On February 25, 2025, per the Committee's request, the Department submitted additional information addressing 13 of the 19 data items cited above. The Department looks forward to working with the Committee to better identify data that should be reported and data that is not applicable to the Department for the purposes of future sunset reviews.

In addition, the Department is developing a comprehensive data warehouse to centralize its information efficiently to support more accurate data gathering and reporting. The plan is for the data warehouse to directly feed into the California Open Data Portal, making data more accessible to the public.

Committee Recommendation: The bill requires additional information to be included in the DRE annual military licensing data report, including the number of applicants who requested to apply military education, training, or experience towards meeting licensure requirements. The bill would additionally require the DRE to inquire as to whether the applicant for licensure is serving or has served in the military and whether the applicant intends to apply military experience and training toward licensure requirements. The bill requires the DRE to post specified information on its website about how one can apply military experience and training toward licensure requirements.

Issue #8 – Applicant Fingerprint Authority. Every applicant for an initial real estate license is required to be fingerprinted prior to being issued a real estate license and fingerprints may be submitted either with the application to take the license examination or with the application for a real estate license (BPC § 10152). Current law, BPC § 10152, also provides that the Commissioner require petitioners for reinstatement of their licenses or a reduction of a penalty to submit fingerprints with the petition application. Statute also requires applicants for a prepaid rental listing service license to submit fingerprints (BPC § 10167.4).

In light of FBI and DOJ informing DRE and other programs that the statutory authority used to process fingerprint-based background checks for state employees in the Government Code no longer qualifies for access to federal criminal history information, the Department wishes to be proactive in ensuring its licensee fingerprint authority also complies with P.L. 92-544.

The Real Estate Law is currently silent regarding authorizing the California DOJ to provide fingerprint history information, including FBI response information, to DRE for applicants and those petitioning for license reinstatement or penalty reduction. P.L. 92-544 outlines the criteria the FBI requires in state statutes for state entities to access federal criminal background check information. DRE is proposing to amend statute to comply with those criteria to ensure it remains authorized to receive state and federal level fingerprint-based background check information from the DOJ for real estate license applicants, those petitioning for reinstatement of their licenses or a reduction of a penalty, and prepaid rental listing service license applicants.

Staff Recommendation in Background Paper: The Department should conduct a comprehensive review of its fingerprint requirements to determine if any amendments are needed to implement the Department's intent for applicant and licensee fingerprinting to comply with P.L. 92-544. The Department should provide the Committees with proposed amendments necessary to ensure it continues to receive criminal reports and subsequent arrest records for all applicants and licensees to which the requirement applies.

DRE Response to the Background Paper: The Department has conducted a comprehensive review of its statutes and determined that, for applicants, state statute does not meet the requirements of federal Public Law 92-544 which outlines the criteria state laws must meet to grant access to federal level fingerprint-based criminal histories (background check information). The Department has drafted language to address the issue and is working with the California Department of Justice (CA DOJ) to refine the language and subsequently share with the Committees.

In order to access criminal background check information from the Federal Bureau of Investigation (FBI), state statute must meet the criteria of Public Law 92-544. In fall of 2022, DRE received a letter from CA DOJ regarding its authority for employee FBI background checks. In 2023, trailer bill updated California Business and Professions Code Section 10073.5 to address the concerns of the FBI regarding DRE's authority to access federal background checks for employees.

In spring 2024, DRE participated in a FBI review of CA DOJ and its administration of federal background check data. Based on those meetings, DRE learned that the FBI currently has Business and Professions Code Section 10177 on file via CA DOJ as the state statute that grants DRE authority for federal fingerprint-based background check data.

DRE is concerned that Business and Professions Code Section 10177 does not include the required elements outlined in Public Law 92-544. While DRE has not yet received an official communication from the FBI indicating it is out of compliance with Public Law 92-544 for purposes of applicant federal fingerprint-based background checks, it seeks to proactively work with CA DOJ to update the statute that authorizes DRE to receive federal fingerprint-based background checks so that it meets the requirements of Public Law 92-544. As the Department's statute for employee federal fingerprint-based background check data was identified as insufficient in December of 2022, DRE seeks to ensure it is compliant on the applicant statute as well.

Committee Recommendation: The bill adds fingerprinting language to relevant code sections regarding applicants for licensure, as recommended to the Committees by the DRE in consultation with the Department of Justice.

Issue #10 – Consumer Recovery Account Claims. DRE administers the Consumer Recovery Account (CRA), a fund that provides compensation to consumers defrauded by real estate licensees who are unable to pay judgments. Before filing an application with DRE for CRA payment, consumers must first obtain a final judgment or criminal restitution order against the licensee. The Commissioner determines if the criteria set by statute for payment are satisfied and issues a written decision granting or denying each application. Since 1964, the Commissioner has paid over $65 million to victims of real estate fraud.

In 2019, the appellate court in Demoff v. Bell, et al. found that DRE violated a licensee's due process rights when it automatically suspended the licensee's real estate license following payment from the CRA pursuant to BCP § 10475, which requires automatic suspension of a license effective on the date of payment from the CRA. Because the standard of proof in the civil fraud actions is preponderance of the evidence, unless there is a special finding supporting an award of punitive damages. Consequently, the resulting suspensions are also largely being based upon a preponderance of the evidence standard.

Although the court in Demoff had no constitutional concerns with the CRA statutes or DRE's procedures for processing CRA applications, the court held that the Legislature cannot constitutionally authorize the imposition of professional discipline for fraud (i.e. suspension of a real estate license in CRA proceedings) when the consumer established fraud in the civil matter only by the preponderance of the evidence burden of proof. In other disciplinary cases, the Commissioner may only suspend a license if the applicant proved the licensee's fraud by clear and convincing evidence (a comparatively higher evidentiary standard). This is consistent with due process requirements for professional license suspensions.

The Demoff decision has impacted DRE's processing and approval of CRA applications, delaying or denying relief to consumers. Due to Demoff, the Commissioner must apply the clear and convincing evidence standard of proof to issue funds because it is attached to the standard required for suspending a license. This results in some consumers not receiving payment from the CRA when they likely would have been eligible before the Demoff decision.

Following the Demoff decision, DRE must undertake a greater fact-intensive review of CRA applications and supporting documentation to meet this higher evidentiary standard. Until Demoff, DRE's policy was to grant payment based upon a judgment if the underlying complaint alleged the licensee's fraud and the applicant's detailed narrative statement of facts did not contradict the civil complaint. Since Demoff, the Department must request and weigh additional documentary evidence from CRA applicants and licensees. However, only a very small percentage of judgments are rendered by a court trial where the burden of proof was higher than a preponderance of the evidence. Also, many CRA applicants never received transaction documents from their agent or are unable to locate the transaction documents. Without sufficient documentary evidence, applicants are unable to meet the higher evidentiary standard and no longer qualify for payment from the CRA. This undermines the very purpose for the CRA and its consumer protection function.

By imposing the additional burden on the consumer to prove fraud by clear and convincing evidence, the Demoff decision affects consumers' ability to recover from the harm perpetrated by a licensee. The appellate court in Demoff recognized in its decision that its ruling may place additional burdens on CRA applicants, but noted it was up to the Legislature to decide if the CRA statutes should be changed to permit payment using a preponderance of the evidence burden of proof.

Should the Legislature concur with DRE's recommendation and create different evidentiary standards for payment and suspensions, other elements of the law surrounding the CRA would need conforming changes. One such change would be to clarify that findings of fraud meeting the applicable evidentiary standard are conclusive for subsequent proceedings involving the same parties and facts. . This lack of clarity exists in instances where the consumer appeals a payment denial from the CRA by DRE and the consumer then refiles their case (known as an application) in court. It also occurs when a licensee appeals a license suspension related to a CRA payment and subsequently files a writ of mandamus (called a writ) in court. If statute is not changed, it leaves the door open to additional litigation regarding matters that previously were settled.

Without statutory changes, consumers will continue to have limited access to financial support from the CRA in the aftermath of real estate related fraud. This hurts consumers who have already been victimized. This is especially timely as southern California rebuilds from the wildfires of early 2025 and preventing harm from real estate fraud is a top priority in this state.

Staff Recommendation in the Background Paper: The Department should inform the Committees of how many consumers were denied CRA payments due to the higher evidentiary standard imposed after the Demoff decision and the total payments that would have been made had the standard not changed. The Department should also provide Committee staff with proposed language to address all issues relating to disbursing CRA funds as intended when the account was created.

DRE Response to the Background Paper: The Department has provided the Committee with proposed language to address the outlined issues related to disbursing Consumer Recovery Account funds and will attach an additional copy of the proposed language to the Department's sunset review responses.

The Department has invested additional staff time to work with Consumer Recovery Account applicants to gather additional documentation that will allow the Department to make payments from the Account under the higher evidentiary standard. However, even with this additional support, decisions on at least two cases were significantly delayed due to the Demoff court decision. Unfortunately, because of the Demoff decision, consumers filing claims to the Consumer Recovery Account who have obtained their underlying judgment via default now have to undergo additional obstacles in obtaining relief. This further exacerbates the timeframe a consumer must wait to receive recompense for the actions of a real estate licensee.

In addition, while uncertain as to the direct cause, it is notable that in the four years preceding the Demoff decision (excluding Fiscal Year 19/20), 69.25 claims were paid

annually on average while after the Demoff decision (excluding Fiscal Year 19/20), only 11.5 claims were paid annually on average.

To prevent further delay and avoid withholding relief to consumers in the future, the Department has proposed language to address the court's concerns.

Committee Recommendation: The bill authorizes the DRE to grant payment to a consumer pursuant to the Consumer Recovery Account if the final judgement was established by proof by preponderance of the evidence or a higher standard of proof, while preserving the clear and convincing standard of proof for license suspensions or revocations.

Issue #11 – Technical Changes. There may be a number of non-substantive and technical changes to the real estate salespersons and real estate brokers that are needed to correct deficiencies or other inconsistencies in the 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 Department's sunset review is an appropriate time to review, recommend, and make necessary statutory changes.

Staff Recommendation in the Background Paper: The Committees may wish to amend the law to include technical clarifications.

DRE Response to the Background Paper: The Department does not have any additional technical changes to recommend at this time, outside of those outlined in the New Issues section of the sunset report. The Department looks forward to working with the Committees and stakeholders on any proposals that may be brought forth in this process.

Committee Recommendation: The bill makes various technical changes to the Real Estate Law, including striking outdated references to the now-defunct conditional licensure program, eliminating gendered pronouns, striking non-operative statute, and updating various cross-references.

Issue #12 – Continued Regulation by the DRE. The welfare of consumers is best preserved under the presence of a strong licensing and regulatory structure to oversee the real estate industry that can sustain its existence through license fees and other forms of revenue. Operating within its budget authority is imperative for any state agency and should be among the highest priorities for any entity at the department level of state government. The Department should also continue to advocate for a well-trained workforce that contributes to the equitable and fair treatment of the public and update its data collection and reporting tools.

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

DRE Response to the Background Paper: The Department supports the staff recommendation and appreciates the Committees' support.

Committee Recommendation: The bill extends the DRE's sunset date to January 1, 2030.

BREA SUNSET ISSUES FOR CONSIDERATION:

As part of the BREA'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 BREA's "Sunset Review Report 2025" submitted to the Legislature in January. 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 BREA regarding issues raised in their report. The background paper is available on the Committee's website: https://abp.assembly.ca.gov/jointsunsethearings. On April 4th, the BREA responded to these recommendations and presented committee staff with potential reforms and statutory language to address various issues. As further detailed below, this bill addresses certain issues discussed in these reports and responses:

Issue #2 – Real Estate Appraisers Regulation Fund – Recovery Account. BPC § 11410 establishes the Real Estate Appraisers Regulation Fund (Fund). This Fund is to be comprised of separate accounts intended to fund the costs of Bureau administration and an account intended for recovery. "Recovery" in this case refers to a final judgement from a court of competent jurisdiction or an arbitration award that has been confirmed and reduced to judgement that orders restitution payment to a consumer by a licensee defendant based upon the defendant's fraud, misrepresentation, or deceit, made with intent to defraud, or conversion of trust funds, arising directly out of any transaction performed under the scope of the defendant's license.

BPC § 11412 requires the Bureau, by January 1, 2002, to determine the number of complaint cases containing judicial findings of fraud that may be eligible for such a payment to inform regulations that would implement recovery payments similar to the recovery fund administered by the Department of Real Estate (DRE) as described by BPC § 10470 et seq. Further, BPC § 11412 (b) requires the Bureau to adopt regulations analogous to those adopted for the Real Estate Recovery Fund as administered by DRE by January 1, 2004.

The number of complaints should have informed the Bureau of whether the recovery account is necessary or should be eliminated. It is assumed a report had not been completed as the Bureau has not adopted regulations addressing recovery payments in regulation. However, the Bureau reported in its 2020 sunset report that only one claim has ever been received and the claimant did not seek recovery. In its current sunset report, the Bureau states there have not been any additional claims.

Having received only one claim may not be reflective of a well-behaving licentiate or an account that is unnecessary, but instead, may be a function of consumers not knowing the account exists. The former Office of Real Estate Appraisers (before the Governor's reorganization of 2012) and the Bureau have not complied with requirements to create the account. Consequently, the lack of claims is not surprising – consumers would not be aware that the opportunity to file a claim exists because the account was never created.

It is surprising, however, that the Bureau would suggest (a second time) to eliminate the Recovery Account requirements when the issue of biased appraisals, and the financial harm it

has caused people of color, has been recently well-documented. The Bureau is making significant strides toward educating its licensees about eliminating bias in performing appraisals, and the Bureau is conducting outreach to marginalized communities whose members may become victim of discrimination (or bias) when requesting a property appraisal. Details of articles and Bureau activities are contained in the Committee Background Paper.

The Fair Appraisal Act, enacted by passage of AB 948 (Holden, Chapter 352, Statutes of 2021), requires every real property sale contract to include a notice informing the buyer of their right to an unbiased appraisal and how to file a complaint with the Bureau, effective July 1, 2022. This bill also requires the Bureau to update its complaint form, track demographic information related to these complaints, and report that information to the Legislature by July 1, 2024.

Significantly, that bill also requires applicants to complete at least one hour of instruction in cultural competency, while continuing education must include training in cultural competency and bias elimination beginning January 1, 2023. The Bureau revisited the unaddressed issue from its previous sunset review where it proposed BPC § 11411 and BPC § 11412 to be removed from statute because there has only been one claim filed.

Eliminating the recovery account before the Bureau realizes the impacts of the Fair Appraisal Act or the Bureau's work to reduce bias in appraisals seems premature and may perpetuate the problems with biased appraisals by removing the possibility of financial redress for marginalized communities who may not know the Legislature intended for there to be a recovery account, especially because that account does not exist.

Staff Recommendation in the Background Paper: The Bureau should provide the Committees with its plan and timeline to comply with BPC § 11411, which requires the Bureau to create a recovery account and fund the account with 5% of licensing revenue. The Bureau should begin informing complainants of the recovery account and criteria for eligibility. The Bureau should compile complaint data, as specified in BPC § 11412 (a), and report that data, along with the account balance and actions taken to inform consumers of the recovery account during its next sunset review. This information will inform the Committees as to whether a recovery account is feasible and should be continued or whether the account should be considered for discontinuation.

BREA Response to the Background Paper: Since the Recovery Account was created in statute several decades ago, the Bureau has only been contacted by one potential claimant. The Bureau concurs with the staff recommendation from the Bureau's prior sunset report that the Recovery Account be removed from law. However, the Bureau welcomes the opportunity to collaborate with the Legislature to determine the need for the Recovery Account and if the need is there, to assess whether statutory changes are necessary to implement the Recovery Account.

The Bureau notes several factors that may impact implementation of the Recovery Account, including the Bureau's current fund balance and the impact any Recovery Account would have on future fee increases. Lastly, before deciding whether to establish a Recovery

Account, there should be a review of complaints from recent years to assess whether the number of cases with judicial findings of fraud justifies the need for such an account. *Committee Recommendation:* Committee amendments proposed below will require the BREA to post information about the Recovery Account on its website by July 1, 2026, including eligibility requirements and application procedures. Amendments further require the BREA to, upon receipt of a complaint by a licensee or a member of the public, provide a notification to the complainant that includes information regarding eligibility requirements for the Recovery Account and its application process. Finally, committee amendments require the BREA to submit an annual report to the Legislature, beginning January 1, 2026, regarding specified information about the recovery account.

Issue #6 – Declining and Aging License Population. The Bureau's license population has steadily decreased since its peak of 20,080 in 2009. Currently, the license population is half of what it was during the peak, with the population remaining fairly steady until fewer licensees renewed post-COVID. Additionally, the Bureau conducted a survey of its licenses and found 77% of respondents (1827 out of 2,309) are aged 50 or older and 49% of respondents have held their license for 25 years or longer. These statistics speak to the longevity of those in the industry, but as the licensee population ages and retire, younger applicants must replace them. However, entry into the profession is arduous and costly and may deter new applicants.

Currently, to obtain a trainee license, an applicant must have completed 150 hours of instruction in specified courses plus additional California-specific coursework within five years preceding the date of application. Trainees must also find an appraiser willing to train them so they can complete 1,000 hours of experience in no less than 6 months. The training requirement has proven to be a significant barrier, especially for those who do not have a relationship with an appraiser willing to supervise. The Bureau recently implemented PAREA to connect trainees with supervisors, which will decrease the impact of the supervisor barrier if effective.

In addition to a stagnant housing market, real estate appraisers are only required to be licensed to conduct an appraisal for federally related transactions, defined by BPC § 11302 (t) as, "any real estate-related financial transaction that a federal financial institutions regulatory agency engages in, contracts for or regulates and that requires the services of a state licensed real estate appraiser regulated by this part. This term also includes any transaction identified as such by a federal financial institutions regulatory agency." Appraisal activity that does not require a licensed appraiser include, but are not limited to the following:

- Assessing property value for tax purposes or a tax appeal;
- Conducting an assessment as part of an insurance claim;
- Preparing the property for development or redevelopment;
- Due diligence ahead of an enterprise merger or acquisition;
- Assessing property value as part of a divorce settlement or probate; and
- Eminent domain cases

Although not comprehensive, the above list demonstrates appraisal activity not captured by the Bureau's jurisdiction. Several states regulate these type of appraisals, others only require licensure for FTRs like California, and others are "mandatory" states that require a license while including some exemptions. In spite of the Bureau's actions to make an appraiser license more obtainable, the cost of obtaining a license may serve as a disincentive, especially considering the substantial amount of appraisal activity that does not require a license.

Most of California's licensing programs, particularly those under the DCA umbrella, set minimum standards for its licenses. However, the Bureau must comply with federal standards because only FTRs fall within the Bureau's jurisdiction, i.e. the Bureau cannot propose changes intended to reduce barriers to licensure to this Legislature while also remaining compliant with federal requirements. Consideration should be given to whether there is a credible consumer protection value add if California were to expand license requirements to other types of appraisal activity.

Staff Recommendation in the Background Paper: The Bureau should discuss strategies for increasing its license population, especially in the younger demographics. The Bureau should also inform the Committees whether expanding licensure requirements to non-FTR appraisals would be feasible and the impact it would have on consumers, the Bureau, and industry. The Bureau should inform the Committees of whether expanding the Bureau's jurisdiction would result in lowered fees for existing licensees and to what degree. Finally, if the Bureau recommends expansion, the Bureau should discuss whether there are valid exemptions and the rationale for those determinations.

BREA Response to the Background Paper: The Bureau plans to prioritize outreach to individuals just starting careers, removing barriers to entry, and enhancing career advancement pathways in its next strategic plan for 2025 – 2030. This may include outreach to high schools and colleges, collaboration with community colleges to implement Practicum programs, expanding the Practical Application of Real Estate Appraisal (PAREA) program in California, and enhancing the traditional supervisory model.

If there is legislative interest in expanding licensure requirements to all appraisals, the Bureau could consider conducting a comprehensive study related mandating appraisal licenses for either all, or a subset of appraisals, performed in California (currently appraisals are only mandated for federally related transactions). There are currently valid exemptions, which are opinions given by a real estate licensee, an engineer, or land surveyor in the ordinary course of the person's business as a Board of Professional Engineers Land Surveyors, and Geologists or licensee of the Department of Real Estate licensee. In addition, a probate referee who is not preparing an appraisal for a federally related transaction and acting pursuant to Sections 400 to 408, inclusive of the Probate code are excluded. Each of these exceptions are identified in BPC section 11302(b). The Bureau will continue to view these as exemptions when conducting the study. At the conclusion of the feasibility study, the Bureau may recommend expansion. The study will also consider if licensing fees can be lowered if mandatory licensure is required and expands the Bureau's licensing population.

Committee Recommendation: Committee amendments proposed below will require the BREA to conduct a study on the feasibility of mandatory licensing for appraisers in California, and to report its findings to all appropriate committees of the Legislature on or before December 31, 2028. The report shall include, at a minimum, a summary of unlicensed appraisal activities in California and their participant populations, a review of regulatory practices and impacts in other states, detailed regulatory recommendations for California including potential exemptions and an implementation plan, and associated fiscal estimates such as implementation costs, projected revenue, and effects on current license fees.

Issue #11 – Continued Regulation by the BREA. The welfare of consumers is best preserved under the presence of a strong licensing and regulatory structure to oversee the real estate appraisal industry that can sustain its existence through license fees and other forms of revenue. Since its last sunset review, the Bureau has implemented significant policy changes that improve the Bureau's effectiveness in protecting consumers, taken steps to achieve cost savings, and become a leader in the nation in addressing equitable and fair appraisals. At the same time, the Bureau is experiencing a decline in its license population, increasing pro rata, and a decline in reserves that calls into question the Bureau's ability to sustain itself. In spite of these looming issues, the Bureau did not submit any new issues for consideration by the Legislature. Thus, the Legislature must consider whether the Bureau's structure as a program within the DCA is in the best interest of consumers.

The DCA charges pro rata in exchange for providing centralized services to programs that fall within its umbrella. However, the Bureau does not utilize some services provided by the Department that other programs do because it has its own infrastructure. For example, the Bureau supports its own IT system by dedicating several positions – a system engineer, two software engineers – to system development and maintenance. Additionally, the Bureau recently hired its own attorney, who is housed in the Department's Legal Division, but is paid by the Bureau in addition to its annual pro rata to the Department. Despite the Bureau using its own resources for these services, its pro rata continues to rise. In fact, because the Department's pro rata is partially based on authorized PYs, the pro rata may be lower if the Bureau did not have these positions in their PY count.

Despite these challenges, the Bureau continues to serve as an example nationwide of how to implement licensee education addressing bias. In addition to accomplishments already discussed, Chief Jemmott presented at the Appraisal Diversity Collaborations with Other Agencies Initiative (ADI) on April 1, 2023. The ADI is designed to educate and provide the necessary resources to a diverse group of aspiring appraisers and the event was sponsored by Fannie Mae, Freddie Mac, and the National Urban League. Topics included ways to find a supervisor, networking strategies, how to get involved in state and national associations, diversity and inclusion, appraisal reporting, and the positive intangibles of an appraiser.

Additionally, on May 19, 2023, Chief Jemmott testified in Washington, D.C., at the Appraisal Subcommittee's second hearing on appraisal bias. The hearing explored the appraisal regulatory system focusing on appraisal standards, appraiser qualification criteria and barriers to entry, and appraisal practice. The hearing's purpose was to better understand the current challenges and explore opportunities to improve the appraisal profession while combatting bias and promoting fair appraisals for all.

The Bureau's position as a leader on the national level calls into question whether it makes sense for the Bureau to be buried under multiple levels of bureaucracy or whether it would be appropriate to return the Bureau to its former place as an office within an Agency. The Bureau, as an administrator of federal laws and standards, should be responsive when called upon without unnecessary layers of request approval, work review, and other impediments and delays.

Governor Newsom released his proposed FY 2025/26 state budget summary on January 10, 2024. The proposed budget creates a California Housing and Homeless Agency and a California Consumer Protection Agency using the formal governmental reorganization process. To accomplish a reorganization, the Governor must submit a proposed plan to the Little Hoover Commission for review 30 days before submitting the plan to the Legislature.

The potential of an Agency reorganization while the Bureau is undergoing sunset review presents the Committees with a unique opportunity to consider whether the Bureau should remain under the DCA umbrella before the plan is submitted to the Legislature. The Legislature, Bureau, administration, stakeholders, and others should give strong consideration to whether the Bureau should reside as a 28 bureau in the Department of Consumer Affairs, a bureau or division in another department, an office with an Agency, or another structure.

Staff Recommendation in the Background Paper: The continued licensing and regulation of real estate appraisers and appraisal management companies is necessary to protect the interests of the public, including ensuring that these professionals comply with federal law and are able to do their job on federal transactions. However, strong consideration should be given to the Bureau's most advantageous placement and structure, which would allow optimal administration of the real estate appraisers practice act, improve consumer protection, and allow the Bureau to continue in its role as leader on a national level. The Bureau should also continue to advocate for a well-trained workforce that contributes to the equitable and fair treatment of the public.

BREA Response to the Background Paper: The Bureau appreciates the opportunity to work with the Legislature on continuing consumer protection for consumers of real estate appraisals, especially where it concerns equity and fair treatment for all Californians. The Bureau has enjoyed a close and well supported relationship with the primary consumer protection entity in the state, the Department of Consumer Affairs, but is willing to discuss any other options the Legislature deems necessary.

Committee Recommendation: The bill extends the BREA's sunset date to January 1, 2030, at which time the Committees will review the structure and viability of the Bureau in context of the licensure report outlined in the proposed committee amendment.

OTHER PROVISIONS OUTSIDE OF SUNSET:

Bureau of Automotive Repair Remedial Training Pilot Program. The Bureau of Automotive Repair (BAR) was established within the DCA in 1972 following the enactment of the Automotive Repair Act. The Automotive Repair Act authorized the BAR to regulate the

automotive repair industry in California and mandated, among other things, that automotive repair dealers (ARD) be registered by the BAR and subject to specific requirements such as providing customers with written estimates that must be authorized by the customer prior to performing any work on the vehicle and invoices for the repairs performed.

As of Fiscal Year 2021-22, the BAR issues eleven license, registration, and certificate types, responsible for overseeing 34,093 registered ARDs, of which 6,397 are licensed Smog Check stations and 1,577 are licensed brake and lamp stations, as well 20,773 Smog Check inspectors, repair technicians, and brake and lamp adjusters. The BAR mediates consumer complaints, investigates violations of the Automotive Repair Act and related laws and regulations, and takes disciplinary action against registrants and licensees as authorized.

AB 471 (Low, Chapter 372, Stats. of 2021) authorized the Director of the BAR to establish a process for informal review and recommendation on citations beginning July 1, 2023, including granting ARD's the ability to take a remedial training course in order to prevent disclosure of a citation on the BAR's website. These provisions were included as a pilot program with a sunset date of July 1, 2026. Since the implementation of this program, the BAR and industry stakeholders alike have expressed to the Committees that the remedial training program has been beneficial to licensees, and the BAR reports that they have received no complaints or inquiries from the public regarding the program. As a result, the BAR has requested that the sunset date on the pilot program be stricken and that the remedial training program for ARD citations be made permanent. In order to review the BAR's citation process and remedial training program as part of its sunset review, this bill extends the sunset date on the program to January 1, 2028, aligning it with the sunset date for the BAR as a whole.

Current Related Legislation. AB 1501 (Berman) is the sunset bill for the Physician Assistant Board and the Podiatric Medical Board of California. *This bill is pending in the Senate Appropriations Committee.*

AB 1502 (Berman) is the sunset bill for the California Veterinary Medical Board. *This bill is pending in the Senate Appropriations Committee.*

AB 1503 (Berman) is the sunset bill for the California State Board of Pharmacy. *This bill is pending in the Senate Business, Professions, and Economic Development Committee.*

AB 1504 (Berman) is the sunset bill for the California Massage Therapy Council. *This bill is pending in the Senate Public Safety Committee.*

SB 641 (Ashby) authorizes licensing boards under the DCA and the DRE to waive the application of specified laws for licensees and applicants who are impacted by a declared federal, state, or local emergency or whose home or business is located in a disaster area; requires licensees and applicants to provide an email address to their licensing agency; requires the DRE to make determinations regarding any unlawful, unfair, or fraudulent practices by individuals in the wake of a declared emergency or disaster area, including unsolicited offers for real property for an amount less than fair market value; and establishes requirements for debris removal. *This bill is pending in this committee.*

SB 775 (Ashby) is the sunset bill for the Board of Behavioral Sciences and the California Board of Psychology. *This bill is pending in this committee.*

SB 776 (Ashby) is the sunset bill for the California Board of Optometry. *This bill is pending in this committee*.

Prior Related Legislation. SB 800 (Archuleta), Chapter 431, Statutes of 2021 extended the sunset dates of the DRE and the BREA to January 1, 2026, and made various changes to statute resulting from the joint sunset review of the entities, including expedited licensure for military personnel, veterans, and their spouses.

AB 471 (Low), Chapter 372, Statutes. of 2021 authorized the Director of BAR to, beginning July 1, 2023 establish a process for informal review and recommendation on citations including granting ARD's the ability to take a remedial training course in order to prevent disclosure of a citation on the BAR's website, and subjected these provisions to a sunset date of July 1, 2026.

AMENDMENTS:

To address issue #2 from the BREA's "Sunset Review Report 2025" related to the recovery account, amend the bill as follows:

On page 29, after line 26:

11412. (a) On or before January 1, 2002, the director shall determine the number of complaint cases containing judicial findings of fraud that may be eligible for recovery pursuant to future regulations that are closely analogous to those which have been adopted for the Real Estate Recovery Fund established in Chapter 6.5 (commencing with Section 10470) of Part 1. This information shall be used by the director to determine whether a real estate appraiser Recovery Account is necessary or whether to recommend that it should be eliminated.

(b) On or before January 1, 2004, regulations shall be adopted for administration of the Recovery Account, which shall include claims, funding, and administrative procedures closely analogous to those which have been adopted for the Real Estate Recovery Fund established in Chapter 6.5 (commencing with Section 10470) of Part 1.

(c) The statute of limitations for claims against the fund arising between the effective date of this part and the creation of the fund shall be tolled until the date the fund is created.

(d) Effective July 1, 2026, the bureau shall:

(1) Post information about the Recovery Account, eligibility requirements, and application procedures to its website.

(2) Upon receipt of a complaint by a licensee or a member of the public, provide a notification to the complainant that includes information regarding eligibility requirements for the Recovery Account and its application process.

(e) The bureau shall submit to the Legislature on or before January 1, 2028, and annually thereafter, the balance of the Recovery Account at the end of each fiscal year. The report shall also include the number of applicants for relief from the Recovery Account, the number of applicants who were approved, and the total payments made from the Account.

To address issue #6 from the BREA's "Sunset Review Report 2025" related to the declining license population, add a new section to the bill as follows:

(a) The bureau shall conduct a one-time study on the feasibility of mandatory licensing for appraisers in California. The bureau shall report its findings to all appropriate committees of the Legislature on or before December 31, 2028. The report shall, at a minimum, include:

(1) The types of real estate appraisal assignments for which a license is currently not required in California, including the estimated population of individuals engaged in each type.

(2) Information from other states, including the scope of authorized activities in each state, license application and issuance costs, licensee populations, and any issues or consumer protection resulting from regulation in that state.

(3) Recommendations shall include the appraisal assignments that are recommended to be regulated in California, recommended exemptions, an implementation plan, recommended amendments to existing law, and an estimated timeline for implementation.

(4) Fiscal estimates, including estimated costs of implementing the recommendations, estimated revenue generated by the recommendations, and the potential impact to existing license fees.

(b) The bureau shall hold at least two public meetings prior to publication of the report to gather information from the public, consult with interested parties, and incorporate relevant stakeholder feedback.

REGISTERED SUPPORT:

None on file

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 775 (Ashby) – As Amended July 2, 2025

SENATE VOTE: 39-0

SUBJECT: Board of Psychology and Board of Behavioral Sciences

SUMMARY: Extends the sunset date for the California Board of Psychology (BOP) and the Board of Behavioral Sciences (BBS) until January 1, 2030, and makes additional technical changes, statutory improvements, and policy reforms in response to issues raised during the boards' sunset review oversight process.

EXISTING LAW:

Board of Psychology

1) Establishes the Psychology Licensing Law, which provides for the state's licensure and regulation of psychologists. (Business and Professions Code (BPC) §§ 2900 *et seq.*)

2) Establishes the BOP within the Department of Consumer Affairs (DCA) for purposes of implementing and enforcing the Psychology Licensing Law. (BPC § 2920)

3) Specifies that no person may engage in the practice of psychology, or represent themselves to be a psychologist, without a license issued by the BOP. (BPC § 2903(a))

4) Defines the "practice of psychology" as rendering or offering to render to individuals, groups, organizations, or the public any psychological service involving the application of psychological principles, methods, and procedures of understanding, predicting, and influencing behavior, such as the principles pertaining to learning, perception, motivation, emotions, and interpersonal relationships; and the methods and procedures of interviewing, counseling, psychotherapy, behavior modification, and hypnosis; and of constructing, administering, and interpreting tests of mental abilities, aptitudes, interests, attitudes, personality characteristics, emotions, and motivations. (BPC §2903(a))

5) Defines "psychotherapy," for purposes of the Psychology Licensing Law, as the use of psychological methods in a professional relationship to assist a person or persons to acquire greater human effectiveness or to modify feelings, conditions, attitudes, and behaviors that are emotionally, intellectually, or socially ineffectual or maladaptive. (BPC § 2903(c))

6) Authorizes a person who is licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada to offer psychological services in California for a period not to exceed 30 days in any calendar year. (BPC § 2912)

7) Requires an applicant for licensure to have earned a doctoral degree, as specified, from a college or institution of higher education that is accredited by a regional accrediting agency recognized by the United States Department of Education. (BPC § 2914(b))

8) Requires an applicant for licensure trained in an educational institute outside the United States or Canada to demonstrate to the satisfaction of the BOP that the applicant possesses an acceptable doctoral degree that is equivalent to a degree earned from a regionally accredited academic institution in the United States or Canada, as specified, or by the National Register of Health Service Psychologists, and any other documentation the board deems necessary. (BPC § 2914(b)(5))

9) Requires an applicant for licensure to complete coursework or provide evidence of training in the detection and treatment of alcohol and other chemical substance dependency as well as in spousal or partner abuse assessment, detection, and intervention. (BPC §§ 2914.1 – 2914.2)

10) Requires the BOP to develop guidelines, as specified, for the basic education and training of psychologists whose practices include patients with medical conditions and patients with mental and emotional disorders, who may require psychopharmacological treatment and whose management may require collaboration with physicians and other licensed prescribers. (BPC § 2914.3(b))

11) Requires a licensed psychologist to complete 36 hours of approved continuing professional development, as specified, every two years as a condition of license renewal. (BPC § 2915)

12) Requires, effective January 1, 2020, an applicant for licensure as a psychologist to show, as part of the application, that they have completed a minimum of six hours of coursework or applied experience under supervision in suicide risk assessment and intervention. Licensed psychologists, as a one-time requirement, must, prior to their next license renewal after January 1, 2020, or an applicant for reactivation or reinstatement to an active license status, complete a minimum of six hours of coursework or applied experience under supervision in suicide risk assessment and intervention (BPC § 2915.4)

13) Requires any applicant for licensure as a psychologist as a condition of licensure, to complete a minimum of six contact hours of coursework or applied experience in aging and long-term care, as specified. (BPC § 2915.5)

14) Requires that protection of the public be the Board's highest priority in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (BPC § 2920.1)

15) Authorizes the Board to refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee, as specified. (BPC §§ 2960 *et seq.*)

16) Specifies that any person who violates the Psychology Licensing Law is guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding $2,000, or by both. (BPC § 2970)

Board of Behavioral Sciences

1) Establishes the BBS under the DCA for purposes of implementing and enforcing the Licensed Marriage and Family Therapist Act, the Educational Psychologist Practice Act, the Licensed Professional Clinical Counselor Act, and the Clinical Social Worker Practice Act. (BPC § 4989.12)

2) Specifies that protection of the public shall be the highest priority for the board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (BPC § 4990.16)

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

4) Authorizes a person who holds a license in another jurisdiction of the United States as a professional clinical counselor to provide professional clinical counseling services in California for a period not to exceed 30 consecutive days in any calendar year, if specified conditions are met. (BPC § 4999.23)

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

6) Requires applicants for licensure or registration to begin graduate study on or after August 1, 2012, to possess a 60-semester unit, or equivalent, masters or doctoral degree that meets specified requirements, including being obtained from an accredited or approved institution. (BPC § 4999.33)

7) Requires applicants to complete a minimum of 3,000 postdegree supervised experience hours performed over a period of not less than two years. (BPC § 499.46(c))

8) Requires every applicant for a license as a professional clinical counselor to take one or more examinations, as determined by the board, to ascertain their knowledge, professional skills, and judgment in the utilization of appropriate techniques and methods of professional clinical counseling. (BPC § 4999.52)

9) Requires an applicant for licensure as a licensed professional clinical counselor (LPCC) to pass a California law and ethics examination and a clinical examination administered by either the board or the National Clinical Mental Health Counselor Examination, to be determined by the board. (BPC § 4999.53)

10) Authorizes the BBS to issue a license to a person who, at the time of submitting an application for a license, holds a license in another jurisdiction of the United States as a professional clinical counselor at the highest level for independent clinical practice if specified requirements are met. (BPC § 4999.60)

11) Requires, on or after January 1, 2021, an applicant for licensure as a professional clinical counselor to show that they have completed a minimum of six hours of coursework or applied experience under supervision in suicide risk assessment and intervention. (BPC § 4999.66)

12) Requires, on or after July 1, 2023, an applicant for licensure as a professional clinical counselor to show that they have completed a minimum of three hours of training or coursework in the provision of mental health services via telehealth, which shall include law and ethics related to telehealth. (BPC § 4999.67)

13) Prohibits the BBS from renewing any license unless the applicant certifies that they have completed at least 36 hours of approved continuing education in or relevant to the field of professional clinical counseling in the preceding two years, as determined by the board. (BPC § 4999.76)

14) Specifies that any person who violates any of the provisions of the Licensed Professional Clinical Counselor Act is guilty of a misdemeanor punishable by imprisonment in a county jail not exceeding six months, by a fine not exceeding $2,500, or by both. (BPC § 4999.86)

15) Authorizes the board to refuse to issue any license, or may suspend or revoke the license of any licensed professional clinical counselor, as specified. (BPC §§ 4999.90 – 4999.91)

16) Authorizes the BBS to assess fees relating to the licensure of professional clinical counseling, as specified. (BPC § 4999.120)

THIS BILL:

1) Requires any person applying for registration or renewal as a research psychoanalyst to show that they have completed training in human sexuality as a condition of licensure.

2) Requires the BOP and BBS to establish mandatory training in child abuse and assessment for research psychoanalysts.

3) Requires all persons applying for registration as a research psychoanalyst to have completed coursework or training in child abuse assessment and reporting.

4) Specifies that it is the intent of the Legislature that a person registered as a research psychologist have minimal but appropriate training in the areas of child, elder, and dependent adult abuse assessment and reporting.

5) Specifies that a research psychanalyst or student research psychoanalysts who engages in various sexual acts with a patient or client, or with a former patient or client when the relation was terminated primarily for the purpose of engaging in those acts, unless as specified, is guilty of sexual exploitation.

6) Defines, for purposes of the Psychology Licensing Law, the following:

   a) "License" means a psychologist license or registration issued by the board.

   b) "Licensee" means a licensed psychologist or a registered psychologist associate regulated by the board.

   c) "Client" means a patient or recipient of psychological services.

7) Clarifies that the current authorization for a person who is licensed as a psychologist in another state, U.S. territory, or Canada, to offer psychological services in California is limited to 30 *consecutive* days, *if specified conditions are met* (emphasis added to distinguish from existing law). Sunsets this authorization January 1, 2030.

8) Authorizes the BOP to post on its website the following information on current and former licensees:

   a) Any record of a disciplinary action.

   b) Orders restricting licensed activity pursuant to Section 23 or the Penal Code.

   c) Public letters of reproval.

   d) Petitions to revoke probation filed by the BOP.

   e) Decisions by the BOP on petitions for early termination or modification of probation and petitions for reinstatement.

9) Updates the BOP's address on the consumer notice licensees are required to conspicuously post in their business office, and requires licensees to include the notice in their informed consent agreements.

10) Expands the scope of unprofessional conduct for research psychoanalysts and student research psychoanalysts.

11) Requires an applicant for registration as a research psychoanalyst to pay a fingerprint processing fee of $49 and an out-of-state applicant for registration as a research psychoanalyst to pay a fingerprint hard card processing fee of $184.

12) Requires an applicant for registration as a research psychoanalyst to complete coursework or provide evidence of training in the detection and treatment of alcohol and other chemical substance dependency and in spousal or partner abuse assessment, detection, and intervention.

13) Requires research psychoanalysts to complete 36 hours of approved continuing professional development, as specified, every two years as a condition of registration renewal.

14) Requires an applicant for registration as research psychoanalyst to show that they have completed a minimum of six hours of coursework or appliance experience under supervision

in suicide risk assessment and intervention, as specified, and six hours of coursework or applied experience in aging and long-term care, as specified.

15) Requires research psychoanalysts to conspicuously post in their office a notice to consumers containing specified information about the BBS.

16) Requires a petition to reinstate a license or registration or to modify a penalty imposed by the BOP to be on a form provided by the BBS and include any facts or information required by the BOP.

17) Specifies that the petitioner has, at all times, the burden of proof to establish, by clear and convincing evidence, that they are entitled to the relief sought.

18) Enumerates factors to consider when the BOP or an administrative law judge is hearing the petition.

19) Authorizes the BOP to, without a hearing, deny a petition for early termination of probation or modification of penalty for specified reasons.

20) Authorizes the BOP to require, for reinstatement of a license or registration, that the petitioner provide information concerning their current physical and mental condition, as specified.

21) Requires, if the BOP issues an order to reinstate a license, that the petitioner comply with specified requirements.

22) Specifies that a plea or verdict of guilty, or a conviction following a plea of nolo contendere which is substantially related to the qualifications, functions, or duties of a research psychologist or student research psychologist is deemed to be a conviction within the meaning of the Psychology Licensing Law.

23) Requires the BOP, whenever it revokes a license, to report the action to the National Practitioner Data Bank, in lieu of to all other state psychology licensing boards.

24) Subjects research psychoanalysts to automatic suspension of their registration due to incarceration.

25) Specifies that a surrendered BOP license may not be renewed, and if the license is reinstated, the licensee must pay the renewal fee, plus the delinquency fee, if any.

26) Reinstates a $25 fee to add or change a supervisor for a psychological testing technician.

27) Expands the allowable degrees for registration as a psychological testing technician to include neuroscience, cognitive science, or behavioral science, and gives the BOP the final determination as to whether a degree or degree program qualifies.

28) Specifies that the definition of "advertising" in the Marriage and Family Therapist Practice Act does not include notices in bulletins from a religious organization (current law references "church bulletins").

29) Extends to January 1, 2030, existing authorization for a person who holds a license in another jurisdiction of the United States as a marriage and family therapist, professional clinical counselor, or clinical social worker, to provide professional services in California for 30 consecutive days, *if they submit a signed statement, under penalty of perjury, acknowledging that they are subject to the jurisdiction of the BBS and agreeing to be bound by the laws of this state* (emphasis added to distinguish from existing law).

30) Authorize the BBS to require a registrant or applicant for licensure as a marriage and family therapist to pass a clinical examination administered by the BBS *or by a public or private organization, as specified by the BBS in regulations* (emphasis added to distinguish from existing law).

31) Requires an applicant for licensure as a marriage and family therapist to complete specified coursework or training to be eligible to sit for the licensing examinations.

32) Repeals the sunset date on provisions allowing supervision of marriage and family therapist trainees and associates, clinical social work associates, and professional clinical counselor trainees and associates to take place via videoconferencing in all settings, not just in exempt settings.

33) Requires an associate to provide the BBS with a copy of their most recent pay stub in lieu of a W-2 for experience gained during a tax year that has not ended by the date the associate's application for licensure is received by the BBS.

34) Enumerates eligibility requirements for a retired license issued by the BBS.

35) Defines "subject to disciplinary action" for purposes of issuing a retired license to mean that the licensee had an unsatisfied cost recovery, fine or restitution order, an accusation or petition to revoke probation that has been served on the licensee alleging violations of their probation or the law, or an unresolved complaint or investigation pending with the BBS.

36) Requires an application for a retired license to include specified information.

37) Allows a retired license to be restored to active status once, if the applicant meets enumerated requirements.

38) Requires an applicant requesting to restore their license to active within one year of being granted retired status to complete 18 hours of continuing education, including at least six hours in California law and ethics, in the two years prior to the application.

39) Requires an applicant requesting to restore their license to active more than one year after being granted retired status to complete 36 hours of continuing education, including at least six hours in California law and ethics, in the two years prior to the application.

40) Prohibits a retired license that was issued three or more years prior from being restored, and authorizes the holder of the retired license to apply for and obtain a new license if specified criteria are met.

41) Specifies that if the BBS chooses to adopt a marriage and family therapy clinical examination administered by a public or private organization, then the examination fee shall be determined by, and paid directly to, that organization.

42) Clarifies and enumerates new requirements for an educational psychologist license, as follows:

    a) Clarifies that in lieu of 60 semester units of postgraduate study, an applicant may have completed 90 quarter units of postgraduate study.

    b) Clarifies that applicants must have two school terms, as defined, of full-time, as defined, or the equivalent to full-time experience, as defined.

    c) Authorizes experience to be earned as a licensed school psychologist.

    d) Authorizes experience to be earned in a school setting other than a public school, as specified in regulations.

    e) Requires applicants, if the required experience was completed while holding a California credential in a school in California, to complete a minimum of 1,200 hours of supervised professional experience in an accredited school psychology program or one school term of full-time, of the equivalent, as a California credentialed school psychologist in the California public schools or in another school setting as specified in regulations under the direction of a California LEP.

    f) Requires applicants, if the required experience was not completed while holding a California credential in a school in California, to complete a minimum of 1,200 hours of supervised professional experience in an accredited school psychology program or one school term of full-time, of the equivalent, as a California credentialed school psychologist in the California public schools or in another school setting as specified in regulations under the direction of a California LEP or California licensed psychologist.

    g) Adds a seven-year age limit to a passing score on the LEP written exam.

43) Defines the terms "full time," "equivalent to full time," and "school term" for purposes of issuing a license to an educational psychologist.

44) Extends the sunset date for the BOP and BBS to January 1, 2030.

45) Various other technical, non-substantive, and conforming changes.

FISCAL EFFECT: According to the Senate Appropriations Committee, the prior version of this bill was anticipated to have the following fiscal effect:

1) Unknown minor increase in revenue to the BOP from the reinstatement of the BOP's $25 change-of-supervisor fee for Psychological Testing Technicians (Psychology Fund). Increased fee revenue will offset additional minor workload to BOP to process change-of-supervisor requests, to some extent.

2) Unknown revenue impact to the BBS from the revised requirements related to the issuance of a retired license. Current law requires a licensee to pay to renew their inactive license status prior to retiring that license. Under this bill, BBS notes the licensee would only need to pay the retired license fee exclusive of any outstanding fees. BBS anticipates other workload impacts to be minor and absorbable.

3) The Office of Information Services (OIS) in the Department of Consumer Affairs notes absorbable costs of $3,000 for IT changes to add new business rules for BBS and create a new fee code for BOP.

COMMENTS:

Purpose. 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 boards' performance and make recommendations for improvements.

Each board subject to review has an enacting statute with a repeal date, meaning their authority must be extended by the Legislature before the repeal date, otherwise the board will lose its statutory mandate. This bill is a "sunset" bill, intended to extend the repeal date of two DCA boards, the Board of Psychology and the Board of Behavioral Sciences, as well as incorporate the recommendations from the sunset review oversight hearings.

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

Background.

Board of Psychology. The State of California began regulating the practice of psychology in 1958 with the enactment of the Psychology Certification Act (Act). The Act defined the practice of psychology, established the Psychology Examining Committee under the Board of Medical Examiners (now the Medical Board of California) to administer and enforce the Act, set forth requirements for persons to become certified psychologists, and prohibited non-certified individuals from representing themselves as psychologists and rendering or offering to render psychological services for a fee. However, the Act did not restrict anyone from practicing psychology, provided they did not represent themselves as a psychologist. By 1967, having grown concerned about potential consumer harm, the State repealed the Act and enacted the Psychology Licensing Law (Licensing Law), ensuring unlicensed psychologists could no longer render or offer to render psychological services for a fee.

The Psychology Examining Committee was renamed the BOP in 1990 and became a standalone entity under the DCA in 1998. Through its administration and enforcement of the Licensing Law, the Board regulates psychologists, psychological associates, psychological testing technicians, research psychoanalysts, and student research psychoanalysts.

Psychologists practice psychology, which is defined as the methods of understanding, predicting, and influencing the behavior of patients, including their emotions, motivation, learning, perception, and interpersonal relationships. Psychologists are permitted to diagnose and engage in non-pharmacological treatment and prevention. Becoming a psychological associate is one of the recognized paths allowing the accrual of the supervised professional experience necessary for licensure as a psychologist. They may perform all of the functions of a psychologist but only under the supervision of a licensed psychologist and they may not accept payment directly from clients.

Psychological testing technicians administer and score standardized psychological tests and observe and describe clients' test behavior and test responses under the supervision of licensed psychologists. Psychological testing technicians are prohibited from selecting tests or versions of tests, interpreting test results, writing test reports, or providing feedback to clients.

Research psychoanalysts engage in clinical psychoanalysis as adjuncts to their academic teaching, research, or training duties. Psychoanalysis focuses on making structural changes and modifications of a person's personality by promoting awareness of unconscious, maladaptive, and habitually recurrent emotional and behavioral patterns. Student research psychoanalysts have the same scope of practice as research psychoanalysts but must operate under the supervision of a research psychoanalyst with at least five years of postgraduate clinical experience in psychoanalysis.

In particular, the BOP is responsible for the following: establishing pathways to licensure/registration; ensuring that licensees/registrants maintain competency; advocating for and implementing statutory and regulatory changes to further the BOP's consumer protection mission while maintaining access to psychological services; investigating complaints against licensees/registrants and taking disciplinary action where appropriate; and educating consumers, licensees/registrants, students, and other stakeholders about the practice of psychology and associated services and the laws that govern them.

The BOP adopted the following mission statement in its 2024-2028 Strategic Plan:

"The Board of Psychology protects consumers of psychological services by licensing psychologists, regulating the practice of psychology, and supporting the evolution of the profession."

Board of Behavioral Sciences. The BBS licenses and regulates Licensed Clinical Social Workers (LCSWs), Licensed Marriage and Family Therapists (LMFTs), Licensed Educational Psychologists (LEPs), and Licensed Professional Clinical Counselors (LPCCs). Additionally, the BBS registers Associate Clinical Social Workers (ASWs), Associate Marriage and Family Therapists (AMFTs), and Associate Professional Clinical Counselors (APCCs).

The BBS is responsible for the regulatory oversight of over 148,000 licensees and registrants. Each profession has its own scope of practice, entry-level requirements, and professional settings with some overlap in areas.

LMFTs are employed in mental health agencies, counseling centers, and private practice. LMFT's utilize counseling or therapeutic techniques to assist individuals, couples, families, and

groups with a focus on marriage, family, and relationship issues. AMFTs have completed the educational requirements for licensure and are in the process of obtaining the hours of supervisory experience required for licensure.

LCSWs are employed in health facilities, private practice, and state and county mental health agencies. LCSWs utilize counseling and psychotherapeutic techniques to assist individuals, couples, families, and groups. ASWs have completed the educational requirements for licensure and are in the process of obtaining the hours of supervisory experience required for licensure.

LEPs work in schools or in private practice and provide educational counseling services such as aptitude and achievement testing or psychological testing. LEPs may not provide psychological testing or counseling services that are unrelated to academic learning processes in the education system.

LPCCs work in a variety of settings including hospitals, private practice, and community-based mental health organizations. LPCCs apply counseling interventions and psychotherapeutic techniques to identify and remediate cognitive, mental, and emotional issues, including personal growth, adjustment to disability, crisis intervention, and psychosocial and environmental problems. APCCs have completed the educational requirements for licensure and are in the process of obtaining the hours of supervisory experience required for licensure.

The BBS's mission statement is:

"Protect and serve Californians by setting, communicating, and enforcing standards for safe and competent mental health practices."

SUNSET ISSUES FOR CONSIDERATION

In preparation for the sunset hearings, committee staff publish background papers that identify outstanding issues related to the entity being reviewed. All background papers are available on the committee's website: https://abp.assembly.ca.gov/hearings/joint-sunset-review-oversight-hearings. While all of the issues discussed in the background papers remain available for discussion, the following issues are those addressed in this bill:

Board of Psychology:

1. *Sunset Issue #5: Examination, education, and experience requirements for associates*. Registered psychological associates are required to have completed a master's degree in psychology, a master's degree in education specializing in education psychology, counseling psychology, or school psychology, or be admitted candidates for a doctoral degree in psychology, education, or related field as specified. If the applicant is an admitted candidate for a doctoral degree in a field other than psychology or education, they must have satisfactorily completed three or more years of postgraduate education in psychology and have passed preliminary doctoral examinations. A foreign doctoral degree may satisfy the degree requirements if certain conditions are met.

The Board reports that confusion for applicants and licensing staff stems from ambiguity in the law regarding the qualifications of master's degrees (i.e., accreditation status and location of educational institution where the degree was earned) and advancement to candidacy for doctoral students (i.e., whether doctoral candidates must have completed three or more years of postgraduate education in psychology and have passed preliminary doctoral exams). The Board believes clarification would assuage confusion for all parties.

Staff Recommendation: The Board should propose clarifying amendments to the relevant statutes.

BOP Response: The Board has included the proposed statutory amendments to clarify the degree requirements for psychological associate registration applicants (Attachment #2 of the Sunset Report). The Board met on April 17, 2025 and further modified the propose statutory amendments and they can be found in the attached addendum to this response (Attachment #1).

Committee Recommendation: Future amendments are likely to clarify that a psychological associate must have completed a master's degree, as specified, or three or more years of postgraduate education, as specified. Additionally, future amendments may require an applicant educated outside the United States or Canada to provide the BOP with an evaluation of their degree by a foreign credential service, as specified.

2. *Sunset Issue #6. Change-of-supervisor fee for psychological testing technicians.* SB 1428 (Archuleta), Chapter 622, Statutes of 2022, established a registration requirement for psychological testing technicians. Psychological testing technicians are required to work under the direct supervision of the licensed psychologist and must notify the Board of any changes to their direct supervisor, provide specified information about their new supervisor, and pay a fee. The fee was initially set at $25, but SB 816 (Roth), Chapter 723, Statutes of 2023, erroneously deleted the fee altogether when it established a fee for psychological associates to add or change supervisors. The Board proposes to recodify the $25 fee for psychological testing technicians.

   Staff recommendation: The Board should report its loss of revenue stemming from the removal of the $25 change-of-supervisor fee.

   BOP Response: The psychological testing technician registration category became operative on January 1, 2024. From January 1, 2024 through December 31, 2024, the Board received a total of 23 requests from psychological testing technicians to add or change supervisor. An estimate of a loss of revenue of approximately $575 during the first year the psychological testing technician became operative. The Board anticipates this loss amount will increase as the psychological testing technician population increases.

   Committee Recommendation: This bill reinstates the $25 change-of-supervisor fee for psychological testing technicians.

3. *Sunset Issue #8: Allowable Degrees for Psychological Testing Technician Registration.* Psychological testing technicians are required to have, at minimum, a bachelor's degree in psychology or education with specialization in educational psychology, counseling psychology, or school psychology. However, the California Psychological Association (CPA) argues that the specificity of current law has prevented applicants with similar degrees from successfully registering with the Board. In an email to committee staff, the CPA reported that one of its members "could not get a testing technician registration approved by the Board of Psychology who had a 'psychological science' bachelor's degree from the University of California, Irvine." CPA would like to expand the subject matter areas for which a bachelor's degree may be accepted by the Board for registration as a psychological testing technician. As justification, the CPA reports the current wait time for psychological testing is between three and six months. More psychological testing technicians, they argue, would reduce wait times for patients. According to CPA, people living with neurodegenerative conditions (e.g., Alzheimer's disease) or neurodevelopmental disorders (e.g., autism spectrum disorder) need swift access to psychological testing for a variety of reasons: benefits and treatment; determining legal or civil culpability; or receiving special education services.

   Staff Recommendation: The Board should opine on the merits of the CPA's proposal and provide a recommendation to the committees.

   BOP Response: At the February 2025 Board meeting, the Board reviewed CPA's proposal and approved language which expands qualifying degrees for the Psychological Testing Technician (PTT) registration. The proposed language would now include baccalaureate degrees in neurosciences, cognitive science, or behavioral sciences, including any field of specialization. It is the Board's intent to increase the availability of PTTs in the workforce and expand access to psychological testing services. The Board recommends the committees support the proposal (Attachment #3 of the Sunset Report).

   Committee Recommendation: This bill would allow a degree in neuroscience, cognitive science, or behavioral science, including any field of specialization, to count towards the education requirement for psychological testing technician applicants. This bill also authorizes the BOP to make the final determination as to whether a degree or degree program satisfies the education requirement.

4. *Sunset Issue #9: Research Psychoanalysts and Student Research Psychoanalysts.* This is a continuation of Issue #9 from the Board's 2021 sunset review. SB 815 (Roth), Chapter 294, Statutes of 2023, transferred oversight of research psychoanalysts and student research psychoanalysts from the Medical Board of California to the Board on January 1, 2025. The Board is currently promulgating regulations related to research psychoanalysts and student research psychoanalysts. The Board is also requesting numerous conforming changes to its application, continuing education, and notice requirements as well as its enforcement statutes to account for this new registrant population. For example, consistent with the requirements for licensed psychologists, the Board seeks to require research psychoanalysts to complete coursework in human sexuality; child abuse assessment and reporting; aging and long-term care; alcohol and other chemical substance dependency; spousal or partner abuse assessment, detection, and intervention;

and suicide risk assessment and intervention as a condition of registration. The Board also requests statutory language requiring research psychoanalysts to similarly complete 36 hours of CPD each biennial renewal cycle. The New Center for Psychoanalysis, in a December 3, 2024, letter to the Board, expressed concern regarding the Board's proposed CPD requirements, particularly as it relates to the number of hours and subject matter.46 Additionally, the New Center for Psychoanalysis opposes the Board's proposed regulatory changes to the definition of "adjunct" and offers additional suggestions for the Board's regulations to reflect the nature of research psychoanalysts' work.

Staff Recommendation: The Board should update the committees on the status of its adoption of regulations pertaining to research psychoanalysts and student research psychoanalysts.

BOP Response: Originally, the board had planned to submit regulations in 2 separate packages, one consisted taking the existing regulatory language from the medical board and revising the language to meet the planned practices of the Board by the January 1, 2025 effective date, and then completing a secondary package that would completely overhaul the regulatory language. On May 10, 2024, the Board approved adoption of regulations for Research Psychoanalysts. On August 16, 2024, the Board approved the revised language. In further discussions with the Board's Regulatory Counsel regarding the 2-step regulatory process, it was advised that the Board may want to consider moving away from the 2-step process and focus on just implementing the second regulatory package, as the first package would not be effective by the effective date of the statute. Counsel advised that the Board may be faced with issues of approval from the Office of Administrative Law regarding the existing language from the medical board. This recommendation was presented to the full board at the February 27, 2025, meeting. The board agreed to focus one comprehensive regulatory package. Board staff is currently working with regulatory counsel on that package. The Board is able to administer the Research Psychoanalyst program using the existing statute and the proposed regulations also anticipate statutory changes the Board is hoping to make during the Sunset process (Attachment 6 of the Sunset Report)

Committee Recommendation: This bill requires research psychoanalysts to complete education and training in the areas of human sexuality, child abuse and assessment, the detection and treatment of alcohol and other chemical substance dependency, spousal or partner abuse assessment, detection, and intervention, suicide risk assessment and intervention, and aging and long-term care. This bill also requires research psychoanalysts to complete 36 hours of continuing education as a condition of registration renewal. Additionally, this bill imposes numerous other requirements on research psychoanalysts that are consistent with the requirements for psychologists. For example, under this bill, applicants for registration as a research psychoanalyst would be required to pay a $49 fingerprint processing fee. Moreover, research psychoanalysts would be required to conspicuously post in their office a notice to consumers containing specified information about the BBS. This bill would also subject research psychologists to automatic suspension of their registration due to incarceration, expands the scope of what constitutes unprofessional conduct by a research psychoanalyst or student research

psychoanalyst, and makes a research psychoanalyst and student research psychoanalyst who engages in various sexual acts with a patient or client guilty of sexual exploitation.

5. *Sunset Issue # 14: Temporary Practice.* This is a continuation of Issue #15 from the Board's 2021 sunset review. BPC § 2912 allows a psychologist licensed in another state or Canada at the doctoral level to offer psychological services in California for 30 days in a calendar year. It is currently unclear whether the limit applies to consecutive or nonconsecutive days. Moreover, it is uncertain whether "day" means any portion of a day or a specific number of hours in a single day. The Board requests clarifying amendments.

   Staff Recommendation: The committees may wish to consider amending BPC § 2912 to mirror BPC § 4980.11, which authorizes therapists licensed by the Board of Behavioral Sciences to temporarily practice in California for up to 30 consecutive days in any calendar year, if stated conditions are met.

   BOP Response: Currently, the Board does not have a tracking mechanism for temporary practice for psychologists licensed in another state. If the Board receives complaints regarding excessive use of the temporary practice provision, the Board would investigate those allegations. The Board had requested a clarifying change that for those who are operating within the 30-day requirement those days are nonconsecutive calendar days. The Board proposed this change in Attachment #4 of its Sunset Report.

   At the March 24, 2025 Sunset Hearing Senator Ashby expressed concern that out-of-state practitioners are not registered and could be practicing on California consumers without the Board's knowledge and suggested that the Board look to recent statutory amendments addressing this issue by the Board of Behavioral Sciences (BBS).

   In 2023, AB 232 (Aguiar-Curry, Chapter 640, Statutes of 2023) amended BBS's practice act to allow greater oversight of those practicing in California temporarily from out-of-state. The amended law does the following:

   - Allows an out-of-state licensee with a current, active, and unrestricted license in psychology at the doctoral level to obtain a temporary practice allowance to see a traveling or relocating client for a period of 30 consecutive days in a calendar year.
   - Requires the client to be located in California, and requires the client to have been the licensee's client immediately before the client travels to California.
   - Requires the therapist to inform the client of the limited time frame of the services, provide their license information, and provide the Board's internet website address.
   - Prior to providing services, the licensee must provide the Board with specified information about their license, identity, and contact information.

   At its April 17, 2025 meeting, the Board discussed the BBS provisions and approved language for possible inclusion in its Sunset Bill. The Board determined that allowing up to 90 consecutive days for practice would help ensure access to necessary services for specific populations. For example, this would allow the continued treatment of out-of-state students studying in California, as well as provide adequate time to complete a psychological assessment in cases where a California provider is not available.

Committee Recommendation: This bill clarifies that the current authorization for a person who is licensed as a psychologist in another state, U.S. territory, or Canada, to offer psychological services in California is limited to 30 consecutive days, if specified conditions are met. The bill extends this temporary practice allowance to January 1, 2030.

6. *Sunset Issue #16. Technical Cleanup.* This is a continuation of Issue #20 from the Board's prior sunset review. As the psychology profession continues to evolve and new laws are enacted, many provisions of the BPC relating to psychology become outmoded or superfluous. Amendments are also often necessary for clarity and to maintain consistency throughout the Act. The Board has identified numerous technical changes to the Act's enforcement provisions as well as provisions related to the registration of research psychoanalysts. Moreover, the Board has identified that BPC § 2995 related to psychological corporations is inconsistent with the Moscone-Knox Professional Corporation Act and recommends minor changes to make the list of permissible corporate officers consistent between the two acts.

   Staff Recommendation: The Board should recommend technical, clarifying, and otherwise "cleanup" amendments to the committees for consideration in the sunset bill.

   BOP Response: The Board has identified several technical changes as part of the Sunset Review such as Enforcement and Corporation provisions (Sunset Report, Item 11E, Issues 4 & 5). The Board will continue to examine the governing statutes and regulations to identify necessary areas for technical cleanup.

   Committee Recommendation: This bill repeals duplicative code sections, updates definitions, corrects the BOP's address in a consumer notice that is required to be posted conspicuously in a licensee's or registrant's office, and makes numerous other non-substantive, technical, or conforming changes.

   This bill also makes various changes to the BOP's enforcement statutes, including updating what the BOP is authorized to post on its website about licensee's disciplinary history; requiring a petition to reinstate a license or registration; or to modify a penalty imposed by the BOP to be on a form provided the BBS; placing the burden of proof on the petitioner to demonstrate that they are entitled to relief; authorizing the BOP to report disciplinary action to the National Practitioner Data Bank; among other changes.

7. *Sunset Issue #17. Sunset Extension. T*his is a continuation of Issue #20 from the Board's prior sunset review. Considering the Board's critical mission to protect the public through the regulation of psychological services in California, it is likely that the committees will ultimately determine that the Board's repeal date should be extended for an additional term.

   Staff Recommendation: The Board's current regulation of the psychology profession should be continued, with potential reforms, to be reviewed again on a future date to be determined.

BOP Response: In order to protect the consumers of psychological services in the State of California, the Board strongly urges the Legislature to continue the regulation of the practice of psychology by the Board of Psychology under its current membership.

Committee Recommendation: This bill extends the BOP's sunset date to January 1, 2030.

Board of Behavioral Sciences

1. *Sunset Issue #3: Marriage and Family Therapy National Exam*. To become a LMFT in California you must pass the Board administered LMFT clinical exam. The Board, in collaboration with the Department of Consumer Affairs' Office of Professional Examination Services (OPES) and Board SMEs, develop the examination. The exam is multiple choice and is provided electronically throughout sites within the state. If an applicant meets specific criteria demonstrating limited English proficiency they may receive additional time to complete the exam. Every seven years OPES conducts an occupational analysis that validates the requirement for a California-specific examination. An occupational analysis provides a comprehensive study of a profession and requires licensees to complete a survey that outlines the tasks that a licensing practitioner performs. Survey results are used in the development of licensing examinations. The last occupational analysis of the LMFT Clinical Exam was in 2020.

   California is the only state that utilizes a Board administered clinical exam; all other states require passing the AMFTRB Marital and Family Therapy National Exam (AMFTRB National Exam). Currently, the Board has adopted national clinical examinations for LCSWs and LPCCs but has not adopted the AMFTRB National Exam for LMFTs. All state-specific and national licensure examinations must demonstrate validity and meet accepted professional guidelines and technical amendments as mandated by BPC §139.

   In consideration of adopting the AMFTRB National Exam and aligning with this mandate, the Board requested that OPES review and evaluate the feasibility of using the AMFTRB National Exam for LMFTs in California. A comprehensive evaluation of the AMFTRB National Exam was conducted by OPES and it was determined that the exam components including: occupational analysis, examination development and scoring, passing scores and passing rates, test administration and test security procedures generally met the professional guidelines and technical standards of the BPC §139. The inherent differences between the AMFTRB National Exam and the California Board-administered LMFT clinical examination revolved around measurement of scope and administration with the AMFTRB National Exam testing broad competency practices while the state examination focused on testing competencies specific to practice in California.

   At the November 3, 2022 Board meeting the findings of the evaluation were discussed amongst the members. The Board concluded there were concerns in the lack of relevant information received and determined more data was needed to understand the impact that the AMFTRB National Exam would have on racial disparities in the administration of mental health services. During public comment attendees noted concerns regarding the lack of disparity data collected on both the AMFTRB and the Board administered clinical

exam. Additional public comments were made to not adopt the AMFTRB National Exam and instead address the government code that prohibits the collection of demographic information for licensure. OPES reported they are willing to continue working with AMFTRB to address concerns noted. The Board voted to decline the use of AMFTRB National Exam for clinical licensure and to continue working with OPES to address the concerns presented.

The topic of adoption of the AMFTRB National Exam for LMFT licensure continues to receive heightened scrutiny by stakeholders due to the growing popularity of telehealth services and license portability among licensed professionals. Subsequently, the Board, through a succession of meetings, voted at its May 2024 Board meeting and ultimately approved statutory amendments to begin the process of accepting the AMFTRB National Exam provided specific conditions are met. The Board notes that AMFTRB is in favor of including California content to their exam. They are currently collecting voluntary demographic data from their exam candidates and are using this data to perform differential item function analysis (a statistical method used in psychometrics to identify if a particular test item is biased against a specific group of test takers) on their exams to identify bias.

The Board reports that it is working with the national exam developer to ensure that there are adequate exam offerings for applicants. Currently, the AMFTRB National Exam is offered one week every month. Conversely, the Board administered LMFT clinical exam is offered Monday – Saturday, year round except major holidays. The Board reports that applicants sitting for LMFT licensure will nearly double the number of exam candidates that the AMFTRB currently serve. Further, the Board notes AMFTRB administrators plan to assess efficient ways to accommodate this possible surge in licensure applicants. The California Association of Marriage and Family Therapist (CAMFT), representing roughly 36,000 members' supports adopting the AMFTRB National Exam. According to the Board, adopting national standards addresses issues faced by marriage and family therapists by increasing portability and licensure for California marriage and family therapist (MFTs), reducing costs seeking licensure in multiple jurisdictions and enhancing telehealth capabilities.

To ensure that California applicants have a voice in the development of future exams, the Board is encouraging licensees to participate in the Job Task Analysis that the AMFTRB is currently conducting. As the largest population of LMFTs in the nation, this participation will ensure that California's current practices are reflected in the examination. Once implementation issues are satisfactorily resolved the Board would need to adopt regulatory amendments accepting the AMFTRB National Exam as the clinical examination for LMFT licensure. The Board will also require an amendment to the clinical exam fee in statute to accommodate the fee determined by the national examination entity.

The move away from state specific evaluations for competency for licensed clinical social workers previously occurred in 2016 when the Board voted to transition licensure for LCSWs to the Association of Social Work Board (ASWB) national clinical examination, joining social work regulatory boards and colleges throughout the country.

The Board notes that utilization of the AMFTRB National Exam unifies California with all other jurisdictions increasing licensure portability and reciprocity for licensed professional MFTs. Further, reliance on one national standard for all licensees removes inconsistencies and expands the volume of clients that are nationally served.

Staff Recommendation: It would be helpful for the committee to understand the improvements in the licensure process that could stem from utilizing a national exam. Further, the Board should inform the Committees on the implications for test cost and availability that this change would produce.

BBS Response: Adopting the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) National Examination could bring significant enhancements to the licensure process. Adopting a nationally recognized examination would align California's standards with those of other states, potentially increasing licensure portability for applicants seeking to practice across state lines. This change would also help ensure that out-of-state licensees applying for California licensure have been assessed using consistent and comparable standards, thereby reinforcing clinical competency and public protection.

Alignment with the AMFTRB Clinical Exam may also reduce redundancy in exam development and oversight, allowing the Board to reallocate valuable resources toward other key areas of licensure and regulation. The AMFTRB exam is developed using rigorous psychometric methodologies, including differential item analysis, something that is not currently done for the California Clinical exam that incorporates candidate demographics to detect and reduce potential bias. The exam is also regularly updated to reflect current clinical practices, further enhancing its validity and reliability.

By focusing exclusively on exam development and maintenance, AMFTRB is well-positioned to respond quickly to emerging issues that may affect exam quality or candidate performance. In addition, AMFTRB offers an official practice exam, a benefit currently not available through the Board's in-house examination, which may help applicants better prepare and improve their chances of success.

While there are many benefits to adopting the AMFTRB Clinical Exam, there are also important considerations regarding test cost and availability. For example, the current fee for the California LMFT Clinical Exam is $250, while the AMFTRB Clinical Exam costs $370. Furthermore, the Board currently offers its clinical exam on a continuous basis, with immediate scoring. In contrast, the AMFTRB exam is offered during a one-week testing window each month, with official scores released approximately 20 days after the test date. Through ongoing dialogue with AMFTRB administrators, it is clear they are actively exploring ways to accommodate a potential increase in California test-takers and are working to minimize any impacts, particularly those related to test availability and accessibility.

As with any major transition, minimizing potential negative impacts on individuals within the licensure pathway will depend on careful planning and transparent, consistent communication and collaboration with stakeholders. The Board will work in partnership

with the California Association of Marriage and Family Therapists (CAMFT), who support the transition to the AMFTRB exam and represent a significant portion of the Board's registrants and licensees. This partnership will help address any concerns that may arise and ensure stakeholders are well-informed throughout the process. The Board remains committed to thoroughly evaluating the full scope of these changes and will continue to keep the Committee and stakeholders updated to ensure the transition supports both public protection and applicant success.

Committee Recommendation: This bill authorizes the BBS to require a registrant or applicant for licensure as a marriage and family therapist to pass a clinical examination administered by the BBS *or by a public or private organization, as specified by the BBS in regulations* (emphasis added to distinguish from existing law).

2. *Sunset Issue #6: Video Supervision Allowance.* In 2022, the BBS sponsored, AB 1758 (Aguiar-Curry, Chapter 204, Statutes of 2022), allowing supervision to take place via videoconferencing in all settings, not just in exempt settings. In response to the COVID 19 pandemic the bill was run as an urgency measure. The BBS notes that based on feedback from supervisors and supervisees, examination of current research on supervising via video conferencing and minimal complaints to the BBS's Enforcement Unit, the BBS proposes to delete the sunset.

   Staff Recommendation: The BBS should advise the Committees if deleting the sunset is the best course of action or should the sunset be extended to provide more data on the efficacy of the measure?

   BBS Response: Discussions regarding whether to extend or eliminate the sunset date for allowing supervision via videoconferencing in all settings began at the Board's April 2024 Policy & Advocacy Committee meeting. The committee directed staff to research current enforcement complaints related to videoconferencing supervision, investigate concerns raised by the Board of Psychology regarding a similar statutory amendment, and conduct a survey through Facebook to assess the concerns of both supervisors and supervisees.

   At the August 9, 2024 Policy and Advocacy Committee meeting, staff presented the findings from this research. Given the lack of evidence of negative outcomes related to supervision via videoconferencing and the evidence showing that it increases access to supervision, staff recommended removing the sunset date for this provision. The Board approved an amendment to eliminate the sunset date at its September 2024 meeting. The Board believes that removing the sunset provision is the most effective course of action.

   Committee Recommendation: This bill repeals the sunset date on provisions allowing supervision of marriage and family therapist trainees and associates, clinical social work associates, and professional clinical counselor trainees and associates to take place via videoconferencing in all settings, not just in exempt settings.

3. *Sunset Issue # 7: Temporary Practice Allowance.* In 2023, the BBS sponsored AB 232 (Aguiar-Curry, Chapter 640, Statutes of 2023) that provides a 30-day temporary practice

allowance to qualifying practitioners licensed in another state who are treating existing clients in California or who are visiting or relocating to California. A temporary practice allowance may only be requested one time per calendar year and is valid for 30 consecutive days. To qualify, a practitioner must hold a license in a jurisdiction that permits clinical practice at the highest level in that jurisdiction. The license must be current, active, and unrestricted and the existing client must be located in California during the time they are seeking care.

The program has been in effect since January 1, 2024 and the BBS reports it has received 553 applications for temporary practice allowance with an average of 43 applications a month. The bill included a sunset date of January 1, 2026 to coincide with the Board's 2025 sunset review. To allow for more time to collect data about the efficacy of the program, the BBS is proposing extending the temporary practice allowance sunset date to January 1, 2030.

Staff Recommendation: The BBS should advise the Committees of any proposed language to extend the sunset. It would be helpful for the Committees to understand how the Board enforces the 30-day timeframe and whether the BBS believes out-of-state practitioners may be providing services to their clients in California beyond these timeframes.

BBS Response: The temporary 30-day practice allowance is designed to support continuity of care by permitting an out-of-state licensee to provide short-term services to a client who is relocating to or temporarily residing in California, without compromising the Board's oversight or consumer protection responsibilities. To utilize this provision, the out-of-state practitioner must complete an online form through the BreEZe system, providing their name, license number, the state in which they are licensed, and the date they intend to begin offering services. Once submitted, the practitioner receives a confirmation of approval, including the timeframe in which they are authorized to practice. Additionally, the BreEZe system is programmed to prevent the submission of a new request unless at least one year has passed since the practitioner's previous use of the allowance, aligning with the requirement that the 30-day provision may only be used once per year. While it is not a clear indicator of compliance, the Board has not received any complaints regarding individuals participating in the temporary 30-day practice allowance.

At the August 9, 2024, Policy and Advocacy Committee meeting, staff reported that, based on available data, the temporary practice allowance appears to be successful, though it is still early in its implementation. Staff proposed extending the termination date of this legislation by four years, until January 1, 2030, to allow the Board additional time to gather data and reassess the law. Staff noted that, given the evolving nature of telehealth practices and interstate licensing compacts, a future review would be beneficial, although any unintended consequences could be addressed sooner if needed. The Board approved an amendment to extend the sunset date to January 1, 2030, during its September 2024 meeting.

The Board will continue to monitor this program and explore ways to enhance oversight of practitioners who may be providing services to clients in California beyond the 30 consecutive allowable days.

Committee Recommendation: This bill extends to January 1, 2030, existing authorization for a person who holds a license in another jurisdiction of the United States as a marriage and family therapist, professional clinical counselor, or clinical social worker, to provide professional services in California for 30 consecutive days, *if they submit a signed statement, under penalty of perjury, acknowledging that they are subject to the jurisdiction of the BBS and agreeing to be bound by the laws of this state* (emphasis added to distinguish from existing law).

4. *Sunset Issue #15: Technical Cleanup.* There may be a number of non-substantive and technical changes to the various practice acts BBS administers that are needed to correct deficiencies or other inconsistencies in the law. Since the last sunset review for the Board, the Board has sponsored or been impacted by 32 pieces of legislation which address all parts of the Board's duties, oversight authority, licensing requirements, and cross reference code sections that are no longer relevant.

   For example, BPC § 4982.05 which details the enforcement statute of limitations for LMFTs is duplicative of BPC § 4990.32 the Board's general statute which already applies to all four practice acts and contains nearly duplicative language. Since BPC § 4982.05 is unnecessary, it should be repealed. Additionally, BPC§ 4999.46.2 (a)(2) delineates the amount of supervision required for professional clinical counselor (PCC) trainees which is misleading because PCC trainees are not allowed to count pre-degree hours. Deleting BPC §4999.46.2 (a)(2) provides clarification of the Practice Act. Updating the LMFT, LEP, LCSW, and LPCC practice acts to include language that requires a license to be current, active, inactive, or expired within the past 3 years to retire it. This added allowance would remove the barrier of requiring someone who had let their license expire from having to pay to reactivate it in order to retire it.

   The Board's sunset review is an appropriate time to review, recommend, and make necessary statutory changes.

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

   BBS Response: The Board appreciates the Committee's recommendation and has approved several proposed cleanup amendments at its November 2024 meeting. Staff have submitted a request and have been working with the Committee to include various proposed amendments in either this year's Committee bill or the Board's sunset bill.

   Committee Recommendation: This bill updates definitions, repeals duplicative code sections, and makes numerous other non-substantive, technical, or conforming changes.

   Additionally, this bill authorizes an associate to provide the BBS with a copy of their most recent pay stub in lieu of a W-2 in limited instances when applying for a license,

authorizes the BBS to issue retired licenses, and clarifies and enumerates new requirements for an educational psychologist license.

5. *Sunset Issue #16: Continued Regulation by the BBS.* The BBS is charged with protecting the consumer from unprofessional and unsafe mental and behavioral health practices. It appears as if the BBS has been an effective, and for the most part, an efficient, regulatory body for the professions that fall under its purview. However, the BBS needs to continue to improve its enforcement outcomes, manage a more effective CE program, maintain high standards for the professions by ensuring active supervisors are not misrepresenting supervised employees, maintain an operational board, focus on ensuring safe access to vital telehealth services and provide guidance to licensees on the usage of Artificial Intelligence in technology. Given that the BBS has been working to ensure its fiscal health, streamline licensing requirements, enhance license portability and create online application accessibility the Board should be able to continue to fulfill its mandate, meet performance targets, and continue to protect consumers.

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

   BBS Response: The Board thanks the Committee and concurs with the recommendation. The Board looks forward to the continued opportunity to protect consumers while working to increase access to mental health services for Californians. We are available to offer further clarification or answer any additional questions that you may have.

   Committee Recommendation: This bill extends the BBS's sunset date to January 1, 2030.

Current Related Legislation. AB 1501 (Berman) is the sunset bill for the Physician Assistant Board and the Podiatric Medical Board of California. *This bill is pending in the Senate Appropriations Committee.*

AB 1502 (Berman) is the sunset bill for the California Veterinary Medical Board. *This bill is pending in the Senate Appropriations Committee.*

AB 1503 (Berman) is the sunset bill for the California State Board of Pharmacy. *This bill is pending in the Senate Business, Professions and Economic Development Committee.*

AB 1504 (Berman) is the sunset bill for the California Massage Therapy Council. *This bill is pending in the Senate Public Safety Committee.*

SB 774 (Ashby) is the sunset bill for the Department of Real Estate and the Bureau of Real Estate Appraisers. *This bill is pending in this Committee.*

SB 776 (Ashby) is the sunset bill for the California Board of Optometry. *This bill is pending in this Committee.*

ARGUMENTS IN SUPPORT:

The *California Association of Marriage and Family Therapists* writes in support:

> CAMFT is particularly supportive of the added provision that would allow the BBS, through regulation, to adopt the Association of Marital and Family Therapy Regulatory Boards' (AMFTRB) Marital and Family Therapy National Examination as the clinical examination for Marriage and Family Therapist (MFT) licensure in California. California is currently the only state of fifty that has its own state clinical exam and has not adopted the AMFTRB national exam. Allowing the Board the ability to make this transition through the regulatory process will significantly improve license portability across state lines and expand federal employment opportunities for California MFTs while maintaining consumer protection.

The *California Association of School Psychologists* writes in support:

> [This bill] provides clarifying amendments to licensing requirements for Licensed Educational Psychologists (LEPs) that fall into three categories:
>
> - Specifying experience requirements for LEPs in greater detail.
> - Clarifying experience requirements for In-State and Out-of-State School Psychologists.
> - Adds a time limit (# years) for the candidates to receive a passing score on the LEP exam.
>
> [This bill] provides essential support and clarity by establishing much needed standards for experience requirements of LEPs and the issuance and renewal of LEP licensees for In-State and Out-of-State applicants...With the passage of this provision in [this bill] , California can attract and retain well-qualified professionals, alleviating staffing shortages and enhancing critical student support services. California has seen a significant increase in the number of students needing assessments and special education services. School psychologists and LEPs are critical to these services.

The *California Psychological Association* writes in support:

> CPA is particularly supportive of the inclusion of language expanding the degrees to qualify as a psychological testing technician to include individuals with bachelor's degrees in neuroscience, cognitive science, behavioral science, and makes other clarifying changes. These important changes will improve access to psychological testing services, important for individuals with autism, Alzheimer's disease, and other conditions.

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

REGISTERED SUPPORT:

Board of Behavioral Sciences
California Association of Marriage and Family Therapists
California Association of School Psychologists
California Psychological Association

REGISTERED OPPOSITION:

There is no opposition on file.

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

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 776 (Ashby) – As Amended July 2, 2025

SENATE VOTE: 39-0

SUBJECT: Optometry

SUMMARY: Extends the sunset date for the California Board of Optometry (Board) until January 1, 2030 and makes additional technical changes, statutory improvements, and policy reforms in response to issues raised during the Board's sunset review oversight process.

EXISTING LAW:

1) Establishes the Optometry Practice Act to provide for the regulation and oversight of optometry. (Business and Professions Code (BPC) §§ 3000 *et seq.*)

2) Establishes the Board within the Department of Consumer Affairs (DCA) for the licensure and regulation of optometrists, registered dispensing opticians (RDOs), contact lens dispensers, spectacle lens dispensers, and nonresident contact lens dispensers, subject to repeal on January 1, 2026. (BPC § 3010.5)

3) Authorizes the Board to appoint an executive officer, subject to repeal on January 1, 2026. (BPC § 3014.6)

4) Makes it unlawful for a person to engage in or advertise the practice of optometry without having first obtained an optometrist license from the Board. (BPC § 3040)

5) Provides that the practice of optometry includes the prevention, diagnosis, treatment, and management of disorders and dysfunctions of the visual system, as well as the provision of habilitative or rehabilitative optometric services, and specifically authorizes an optometrist who is certified to use therapeutic pharmaceutical agents to diagnose and treat the human eye for various enumerated conditions. (BPC § 3041)

6) Requires an optometrist seeking certification to use therapeutic pharmaceutical agents and diagnose and treat specified conditions to apply for a certificate from the Board and meet additional education and training requirements. (BPC § 3041.3)

7) Establishes the requirements for an applicant to qualify for a license to practice optometry in California. (BPC § 3046)

8) Provides for a temporary license to practice optometry for an applicant who is eligible for licensure pursuant to Section 3046, but who is unable to immediately take a portion of the National Board of Examiners in Optometry (NBEO) examination due to the COVID-19 pandemic. (BPC § 3046.1)

9) Requires the Board to adopt regulations by January 1, 2026 establishing a registry for mobile optometric office owned and operated by nonprofit or charitable organizations, which are required to report specified information to the Board and provide patients with information on their care and the availability of followup care; provides that the statute establishing this registration program shall remain in effect only until July 1, 2035. (BPC § 3070.2)

10) Establishes the Optometry Fund in the State Treasury and prohibits the Board from maintaining a reserve balance in the fund that is greater than six months. (BPC § 3145)

THIS BILL:

1) Extends the repeal date on the Board and its authority to appoint an executive officer until January 1, 2030.

2) Clarifies that the federal contact lens rule governs when a prescriber of contact lenses is required to provide a patient's prescription.

3) Establishes a definition of "dispensing ophthalmic business."

4) Requires registrants and licensees to provide the Board with a valid email address at the time of an application for an initial or renewed registration or license, exempts those email addresses from the California Public Records Act, and provides that information sent to an applicant, registrant, or licensee by the Board via email is presumed to have been delivered.

5) Authorizes the Board to issue a probationary registration to an RDO applicant.

6) Clarifies that only natural persons may be licensed to practice optometry in California and defines "person" for purposes of the Optometry Practice Act.

7) Specifies that the temporary license issued by the Board is for applicants who cannot take the Part III - Patient Encounters and Performance Skills Examination from the NBEO.

8) Removes the current restriction limiting the owner and operator of a mobile optometry officer to no more than 12 offices within the first two-year renewal period.

9) Changes the reporting requirement for owners and operators of mobile optometric officers from quarterly to annual reports to the Board and removes the requirement that the report include a summary of all complaints received by each mobile optometric office, the disposition of those complaints, and referral information.

10) Clarifies that the consumer notice that must be provided by the owner and operator of a mobile optometric office to consumers must be provided at the initial time services are rendered and provides that the information on followup care for the patient that must be provided by the owner and operator of a mobile optometric office must specifically include a list of optometrists in the area of service who may be able to see the patient for comprehensive services and for purposes of continuity of care, and the timeframe for which the mobile optometric office will be back in the area of service, if available.

11) Makes various additional technical and clarifying changes to the Optometry Practice Act.

FISCAL EFFECT: According to the Senate Committee on Appropriations, approximately $4.10 million to support the continued operation of the Board.

COMMENTS:

Purpose. This bill is the sunset review vehicle for the California Board of Optometry, authored by the Chair of the Senate Committee on Business, Professions, and Economic Development. The 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. In order to ensure that California's myriad professional boards and bureaus are meeting the state's public protection priorities, authorizing statutes for these regulatory bodies are subject to statutory dates of repeal, at which point the entity "sunsets" unless the date is extended by the Legislature. The sunset process provides a regular forum for discussion around the successes and challenges of various programs and the consideration of proposed changes to laws governing the regulation of professionals. Currently, the sunset review process applies to approximately three dozen different boards and bureaus under the Department of Consumer Affairs, as well as the Department of Real Estate and three nongovernmental nonprofit councils.

California Board of Optometry. California first formally regulated optometrists in 1903 when the Legislature defined the practice of optometry and established the California State Board of Examiners in Optometry. In 1913, the Legislature replaced the act with a new Optometry Law, which created a State Board of Optometry with expanded authority over optometrists, opticians, and schools of optometry. Much of the language enacted in this 1913 legislation survives in statute today. Education requirements for licensed optometrists were subsequently enacted by the Legislature in 1923.

In 2015, through the enactment of AB 684 (Alejo/Bonilla), the Board assumed regulatory oversight of the dispensing opticians program. Prior to the passage of AB 684, the regulation of the dispensing optician professions was under the jurisdiction of the Medical Board of California (MBC). The transition of dispensing opticians from the MBC significantly increased the regulatory responsibilities of the Board. Under current law, no individual, corporation, or firm may engage in the business of filling prescriptions for lenses or perform other activities including "taking facial measurements, fitting and adjusting those lenses and fitting and adjusting spectacle frames" without a valid certificate of registration issued by the Board.

As of January 2025, the Board licenses approximately 7,800 optometrists and registers approximately 1,185 Registered Dispensing Ophthalmic Businesses, 3,300 Registered Spectacle Lens Dispensers, 1,370 Registered Contact Lens Dispensers, and 23 Nonresident Ophthalmic Lens Dispensers. The Board is also responsible for issuing certifications for optometrists to use Diagnostic Pharmaceutical Agents (DPA); Therapeutic Pharmaceutical Agents (TPA); TPA with Lacrimal Irrigation and Dilation (TPL); and TPA with Glaucoma Certification (TPG); and TPA with Lacrimal Irrigation and Dilation and Glaucoma Certification (TLG). The Board additionally issues statements of licensure and fictitious name permits.

The Board's licensed and registered population provide the following services:

- Optometrist: Diagnose disorders and dysfunctions of the visual system and provide treatment and management of certain disorders and dysfunctions of the visual system, as well as the provision of rehabilitative optometric services.

- Registered Dispensing Ophthalmic Business: Individuals, corporations, and firms which engage in the business of filling prescriptions of licensed optometrists or physicians and surgeons.

- Registered Spectacle Lens Dispenser: Fit and adjust spectacle lenses at any place of business holding a Registered Dispensing Ophthalmic Business registration.

- Registered Contact Lens Dispenser: Fit and adjust contact lenses at any place of business holding a Registered Dispensing Ophthalmic Business registration.

- Nonresident Ophthalmic Lens Dispenser: Individuals, partnerships, and corporations located outside of California that ship, mail, or deliver in any manner lenses at retail to a patient at a California address.

Issues Raised during Sunset Review. The background paper for the Board's sunset review oversight hearing contained a total of 20 issues and recommendations, each of which is eligible to result in statutory changes enacted through the Board's sunset bill.[1]

Email Addresses. Issue #2 in the sunset background paper for the Board considered whether licensees and applicants should be required to provide the Board with their email addresses. Several other boards within the DCA are now permitted to require applicants, registrants, and licensees to provide their respective boards with a current email address if they have one during the initial application or renewal process. As reported in the Board's 2025 Sunset Review Report, the Board believes including a similar requirement for its licensing population would be useful as well. Board-communication via email allows the Board to communicate timely information about licensure renewal and law changes in a more expeditious and cost efficient manner.

As noted by the Board, the current examination vendor communicates with applicants via email, and requiring an applicant email (if they have one) would assist the Board in providing timely updates about examination status. In addition, the recent wildfires have demonstrated how quickly important paper documents, including licensing information can be lost or destroyed or the mail can be delayed with little warning or expedited solution. With the use of email, the Board should be able to communicate important licensing and emergency response updates to its licensees and registrants more swiftly. The Board reports that it spent approximately $43,000 on printing and posting in FY 2023-24, including mailing renewal notices along with other printing and postage. Although the Board does not have estimated fiscal savings, communication via email will likely streamline staff time and other Board resources.

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[1] https://abp.assembly.ca.gov/media/1229

This bill would implement the Board's recommendation by requiring an applicant for registration or renewal of registration who possesses a valid email address to report that email address to the Board at the time of application for registration or renewal. The bill would further provide that information sent from an email account of the Board to a valid email address provided by an applicant, registrant, or licensee is presumed to have been delivered to the provided email address. To protect the privacy of applicants, registrants, and licensees, the email address provided to the Board would not be considered a public record that is subject to disclosure, unless required by an order of a court.

Mobile Optometric Offices Quarterly Reporting Requirements. Issue #3 in the sunset background paper for the Board considered whether reporting requirements for mobile optometric offices (MOOs) should be streamlined. AB 896 (Low) of 2020 authorized a new pathway under the Optometry Practice Act that permitted the operation of MOOs, without a requirement that the MOO be connected to an optometry school. The MOO program now allows a nonprofit (501(c)(3)) or a charitable organization (501(c)(4)) to provide mobile optometric services to patients regardless of the patient's ability to pay, under a registration program administered by the Board.

Prior to the implementation of AB 896, mobile optometry services could only be provided if the mobile facility was connected to an educational institution (an optometry school), to which the Board had established regulations for such operations. As specified in the Health and Safety Code, a mobile unit may operate as long as it has written policies established by the governing body of the licensee to govern the services that the mobile unit provides. Those policies must include, at a minimum, policies related to patient care, personnel training and orientation, personnel supervision, and evaluation of services provided by the mobile unit.

Because of the requirements in the Health and Safety Code, the Board had established regulations which permitted MOOs to operate, but only if connected to a school, as part of a school teaching program. There were a number of charitable organizations who found new opportunities to provide consumers with access to optometric care outside of the traditional Brick-and-Mortar office, through the use of mobile vans or mobile clinics. However, the strict prohibition on MOOs operating without being attached to a university, placed mobile office providers in a difficult position: they must either operate in violation of the law or stop providing services. Mobile optometric services have become important tools, especially within the education community with the reduction of many school-based eye care services.

AB 896 established safeguards in order to ensure that the optometric care provided in MOOs is consistent with care provided for current optometric practice. MOOs must be owned solely by a nonprofit or charitable organization, they must register with the Board, no more than 12 MOOs can be operated by one owner or operator within the first renewal period, and medical operations are to be directed solely by a licensed optometrist. Additionally, MOOs must provide the Board with details about business operations, including the name and license number of all optometrists, optician registration numbers, a catalog of complaints, dates of operations, and the counties or cities served by the MOO.

The language enacted through AB 896 requires an owner and operator of a MOO to file a quarterly report with the Board that contains detailed information including the following:

a) A list of all visits made by each MOO, including dates of operation, address, care provided, and names and license numbers of optometrists and opticians who provided care.

b) A summary of all complaints received by each MOO, the disposition of those complaints, and referral information.

c) An updated and current list of licensed optometrists, registered opticians, and any other persons who have provided care within each MOO, since the last reporting period.

d) An updated and current list of licensed optometrists who are available for follow-up care as a result of a complaint on a volunteer basis or who accept Medi-Cal payments.

e) Any other information the Board deems appropriate to safeguard the public from substandard care, fraud, or other violations of the Optometry Practice Act.

Because reports are required quarterly, the owner or operator of a MOO is subject to Board enforcement for any non-compliance. Although MOOs are required to report quarterly to the Board, there is no statutory directive for the Board to do anything with the information provided in those reports. In addition, current law requires the owner or operator of a MOO to provide each patient, and if applicable, the patient's caregiver or guardian, a consumer notice prescribed by the Board with specified information including an optometrist's license number, contact information, a statement on how the patient can obtain copy of the medical records, information on follow up care, and upon request a copy of the patient's prescription.

Current law already requires an optometrist to provide a copy of a prescription to a patient. The consumer information and reporting requirements for MOOs is vital to the Board's consumer protection mandate. However, current law does not specify what the Board is to do with the quarterly information provided by the MOOs, and it's unclear why duplicative prescription information is needed in statute.

The sunset background paper proposed streamlining the reporting requirements for MOOs to ensure the Board only receives information that is necessary for the regulation and enforcement of MOOs. The Board was further directed to advise the Committees as to whether it believed the prescription requirements for MOOs should be consistent with existing law. Following that discussion, this bill was amended to change the quarterly reporting requirements to annual reporting and to amend the information that must be provided by MOOs.

Mandatory Reserve. Issue #5 in the sunset background paper for the Board questioned whether the current statutorily prescribed fund reserve amount is still feasible. Pursuant to the Optometry Practice Act, the Board is prohibited from maintaining a fund reserve balance that is greater than six months of the appropriated operating expenses of the Board in any fiscal year. The Board noted in its sunset report to the Committees that it had reserve levels up to 15 months in FY 2020-21, 13 months in FY 2021-22, and eight months in FY 2023-24, well above the six-month limit. For nearly all other boards and bureaus under the DCA, statute prohibits a fund reserve greater than two-years operating budget. If the funds have more than two-years, they are to reduce licensing fees.

The sunset background paper raised the question of whether the Board's six-month reserve level is appropriate or if the Board should be able to hold reserves up to two years in order to address potential expensive enforcement cases or other unforeseen fiscal impacts to the Board. This bill would align the Board's reserve cap to 24 months, or two years. This language would align the Board with the statute generally governing most entities under the DCA.

Landlord-Tenant Relationships: Registration of Optical Businesses. Issue #12 in the sunset background paper for the Board discussed longstanding issues with implementation of AB 684 (Alejo/Bonilla) of 2015, which entrusted the Board with responsibility to enforce laws and regulations governing the business relationships between optometrists and opticians. That bill additionally made a number of changes to the requirements for optical retailers to make eye exams available to customers and enacted a myriad of new consumer protections in exchange for clarifying what types of relationships between optometrists and retailers would be lawful. As a result, the majority of optical retailers in California are able to additionally offer eye examinations without inappropriately intermingling the sale of optometric products and the optometric care provided to a patient.

In order to avoid perceived conflicts of interest where a licensed optometrist's judgement could be impacted by a retailer store's financial interest, AB 684 established a robust framework for landlord-tenant relationships between licensed optometrists and retail optical ventures which allow optometrists to lease space from an optician, optical company or health plan, while maintaining the ability to practice professionally and independently. AB 684 did not create the requirement for dispensing opticians to be registered in California or to have a bright line between the practice of optometry and the selling and dispensing of lenses. The regulation of individuals selling prescription eyewear and related products began in the 1930s, although at the time it was under the jurisdiction of the MBC. It does not appear the legislative intent of AB 684 was to reduce California's regulatory oversight of those entities who dispense prescription eyewear or to in anyway jeopardize the distinct and independence of optometrists and optical companies.

As discussed in the sunset background paper, although it's been almost a decade since the enactment of AB 684, the Board reports continued problems with optical companies and retailers not abiding by the current registration requirements. Pursuant to the law, an ophthalmologist or their corporation are authorized to contract with, or employ optometrists and unlicensed optometric assistants, and enter into a contract or landlord-tenant relationship with a health plan, optical company, or registered dispensing optician to provide both optometric care and retail sales of prescription eyewear at one location.

According to the Board, it is aware of optical retail establishments who claim that their use of corporate structure and contractual relationships eliminate any Board authority to regulate them. As noted by the Board, there is a specific retailer in California with multiple store locations, which they claim are exempt from Board regulation because they contract with an ophthalmologist who subleases space from their retail store. This retailer also claims not to dispense or fit and adjust any lenses because all fitting, adjusting, and dispensing is performed in the subleased space by the ophthalmologist and their employees or agents. The distinction is invisible to the consumer.

As defined in statute, a registered dispensing ophthalmic business is "an entity that is registered with the board...that offers, advertises, and performs optical services for the general public." The Board notes that some retailers advertise through electronic means, including television and online. "Optical company" is defined as "a person or entity that is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, health plans, or dispensing opticians of lenses, frames, optical supplies, or optometric appliances or devices or kindred products." There is not a definition of "optical company" under the Optician Practice Act. The Board has found that some retail establishments masquerade as "optical companies" while advertising and offering prescription optometric products to consumers while also performing optical services for the general public.

In order to enhance current law to make it clear that *any* retail entity which offers, advertises, or performs optical services for the general public must be registered with the Board, the Board recommends the Legislature consider amending current law to require registration as a dispensing ophthalmic business for all optical companies that manufacture, sell, or distribute lenses, frames, and other optical or optometric supplies and products, to physicians and optometrists, when the optical company also acts as a landlord and subleases space to the physician or optometrist, and their corporation, and when the optical company offers, advertises, and performs optical services for the general public. This bill would effectuate that recommendation, including through the establishment of a formal definition of "dispensing ophthalmic business."

Definition of Person. Issue #13 in the sunset background paper for the Board discussed the existing statutory definition of "person" and whether updates were needed. Section 3040 of the Optometry Practice Act makes it unlawful for a *person* to engage in the practice of optometry or to advertise or hold themselves out as an optometrist without a valid, unrevoked California optometrist license. However, there is not a current definition of "person" in the Optometry Practice Act.

Until a recent enforcement case brought by the Board, the lack of a definition for "person" in the optometry practice act had not been an issue. During a recent enforcement case, the Board issued a citation which alleged a violation of the Section 3040, because the business was advertising or holding themselves out as an optometrist. In an administrative law hearing, the judge determined that "by its own terms, section 3040 applies to natural persons. Nowhere in the Optometry Practice Act is 'person' defined to include a business entity." Although the Board argued against the judge's reading of the law, the judge determined that "if the legislature wished to define "person" in the Optometry Practice Act to include a business entity it could have done so, as it has done elsewhere."

Without a clear statutory definition of "person" within the Optometry Practice Act, the Board could potentially face additional challenges in taking enforcement actions against entities operating as "optometrists" without the appropriate license. There are other practice acts within the Business and Professions Code that have previously defined "person." The Board's sunset report to the Committees requested language to statutorily define "person" in the Optometry Practice Act to clarify that only a natural person may be licensed as an optometrist. That language is included in this bill.

Limit on the Number of Mobile Optometric Offices. Issue #14 raised the question of whether the current 12-office cap on mobile optometric offices still makes sense. As previously discussed, AB 896 (Low) created the MOO program within the Board. In 2021, during the Board's last sunset review, AB 1534 (Low), among other changes, established an arbitrary limit of 12 for the number of MOOs that a nonprofit corporation or charitable organization could own and operate for the first licensure period. After the first renewal period, the cap of 12 is lifted and the MOO registrant is permitted to own and operate as many MOOs as they choose. This contrasts with the limit on the number of optometric practices that optometrists are permitted because that cap of 11 is maintained throughout the life of the license.

Prior to 2019, a licensed optometrist was technically allowed to own only two physical locations. SB 1386 (McGuire) of 2018 statutorily increased the cap to 11, the number of offices that an optometrist, or two or more optometrists in partnership, could own. MOOs were established legislatively after the enactment of SB 1386, therefore a cap on the number of MOOs was not considered as part of that legislation.

Although it is likely that the cap of 12 for MOOs was included to match the current cap on the number of brick-and-mortar optometry offices, the benefit is unclear as to why an initial cap of 12 for MOOs is necessary and what consumer protection benefits it provides, given that they are allowed to increase to more than 12 after the initial licensure period. The Board only recently began accepting applications for the MOO program beginning in January 2025. Although AB 896 was chaptered into law four years ago, it took the Board a number of years to establish the regulations for the registration program. During the time period after the bill was signed into law, MOOs were able to provide services pending the Board's progress in establishing regulations.

Given that MOO operators are non-profit or charitable organizations, the limit on the number of mobile offices could impact services for vulnerable populations. It is unclear what the consumer protection benefit is to a limited number of MOOs during the first renewal period. This bill would eliminate the 12-office cap for MOOs during their first renewal period.

Probationary Registration. Issue #15 in the sunset background paper for the Board considered giving the Board additional authority to issue probationary registrations. When an applicant applies for an optometrist license, the Board has three options: 1) approve the application, 2) deny the application, or 3) issue a probationary license. An applicant, if granted a license with probationary terms and conditions, may be able to demonstrate competent and safe practice. A probationary license is subject to specified terms and conditions that can be modified or terminated at the discretion of the Board. This authority was originally granted to the Board via legislation enacted in 2005.

The same is not true for the registered dispensing business, spectacle lens dispenser or contact lens dispenser applicants. For these registrants, the Board may only approve or deny a registration application. There is no current authority for the Board to issue a probationary registration to the optician registrations. The Board has not issued any probationary optometrist licenses under this provision during the last four fiscal years; however, the Board believes this authority provides it with an important tool that can be beneficial to certain applicants, while allowing the Board to meet its mission of consumer protection.

The laws that govern optician registrations do not provide the Board with the same discretion to issue a probationary license absent the formal denial process, which includes a formal denial of the license, through filing a statement of issues and a settlement or an order by an administrative law judge followed by an appeal from the applicant. When a formal action and appeal is filed, the Board is subject to enforcement costs coupled with the lengthy administrative enforcement process. The Board notes that if it had the ability to issue a probationary license, it would eliminate the lengthy and costly administrative process, allow registrants to practice subject to certain probationary terms and conditions, while allowing the Board to closely monitor the registrant, per the Board's conditions to protect consumers.

As noted in the Board's sunset report to the Committees, the Board is requesting a statutory change to allow the Board to issue a probationary registration to optician registrants, consistent with their authority for optometric applicants. That recommended language is contained in this bill. Under the Board's recommendation, the Board would have discretion to issue a probationary registration to an applicant, subject to terms and conditions. The Board would be authorized to modify or terminate the terms and conditions imposed on the probationary registration if the registrant petitions for modification or termination of terms and conditions of probation.

Federal Contact Lens Rule and Conflict with California Statute. As discussed in Issue #18 of the sunset background paper for the Board, pursuant to the current federal contact lens rule, a prescriber (an optometrist or physician and surgeon) is required to provide a patient with a copy of their prescription, whether it is requested or not, and the prescriber must maintain documentation that they provided the copy of the prescription to their patient. The federal rule was established in 2004 and most recently updated in 2020. Under California law, a prescriber is required to retain professional discretion regarding the release of the contact lens prescription for patients who wear certain types of contact lenses. However, the federal contact lens rule does not permit an exemption for specified types of lenses.

As noted in the Board's sunset report to the Committees, the Board is seeking clarification as to whether state and federal law conflict and a potential resolution to conform state law to federal law by deleting the exemption for contact lens dispensers to provide the patient a copy of their prescription. The sunset background paper requested information from the Board regarding how California law should be amended to remove any discretion for a prescriber to not provide a patient's contact lens prescription to conform to the federal rule. This bill clarifies that licensees and registrants in California are subject to the provisions of the federal contact lens rule, and deletes the current exemption.

Technical Changes. Issue #19 of the sunset background paper for the Board suggested there may be a number of nonsubstantive and technical changes to the Optometry Practice Act and the Optician Practice Act 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, or 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.

For example, in August 2024, the title of Part III of the NBEO examination changed from "Clinical Skills" to "Patient Encounters and Performance Skills." As a result, there are two code sections where the reference to Clinical Skills should be updated with the revised name of the examination, the "Patient Encounters and Performance Skills." Additionally, there are a number of code sections where the term "contact lens" was changed to "ophthalmic lens" during the Board's prior sunset review, which appears to have resulted in unintended changes in requirements for eyeglass prescriptions. This bill makes these technical corrections along with a number of additional nonsubstantive changes intended to clarify and conform existing law.

Continued Operation. Issue #20 in the sunset background paper for the Board posed the traditional question of whether the licensing and regulation of optometrists and dispensing opticians be continued and be regulated by the current Board membership. The sunset background paper recommended that the Board should be continued, and reviewed again on a future date to be determined. This bill would extend the Board's sunset date by an additional four years.

Current Related Legislation. AB 1501 (Berman) is the sunset bill for the Physician Assistant Board and the Podiatric Medical Board of California. *This bill is pending in the Senate Committee on Appropriations.*

AB 1502 (Berman) is the sunset bill for the California Veterinary Medical Board. *This bill is pending in the Senate Committee on Appropriations.*

AB 1503 (Berman) is the sunset bill for the California State Board of Optometry. *This bill is pending in the Senate Committee on Business, Professions, and Economic Development.*

AB 1504 (Berman) is the sunset bill for the California Massage Therapy Council. *This bill is pending in the Senate Committee on Public Safety.*

SB 774 (Ashby) is the sunset bill for the Department of Real Estate and the Bureau of Real Estate Appraisers. *This bill is pending in this committee.*

SB 775 (Ashby) is the sunset bill for the Board of Behavioral Sciences and the California Board of Psychology. *This bill is pending in this committee.*

SB 776 (Ashby) is the sunset bill for the California Board of Optometry. *This bill is pending in this committee.*

Prior Related Legislation. AB 2327 (Wendy Carrillo), Chapter 391, Statutes of 2024 extended the sunset date for the MOO registration program within the Board.

AB 1534 (Low), Chapter 630, Statutes of 2021 extended the sunset date for the Board until January 1, 2026 and made additional technical changes, statutory improvements, and policy reforms in response to issues raised during the Board's sunset review oversight process.

AB 896 (Low), Chapter 121, Statutes of 2020 expressly allowed for nonprofits and charitable organizations to provide optometric services to patients regardless of the patient's ability to pay through mobile optometric offices under a new registration program within the Board.

ARGUMENTS IN SUPPORT:

The *California Optometric Association* (COA) supports this bill, writing: "COA supports the enforcement enhancements in SB 776, particularly the new definition of 'person' that clarifies that corporations may be held accountable for unlicensed practice. Aligning the Optometric Practice Act with the Medical Practice Act ensures corporate entities cannot exploit loopholes to evade oversight." COA further writes: "COA looks forward to continued collaboration with the Committee and stands ready to support efforts that promote high-quality, accessible, and equitable eye care in California."

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

REGISTERED SUPPORT:

California Optometric Association
National Vision
Vision to Learn

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 777 (Richardson) – As Amended June 16, 2025

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

SENATE VOTE: 38-0

SUBJECT: Cemeteries

SUMMARY: Establishes a process whereby control of abandoned endowment care cemeteries is assumed by local authorities; requires the Cemetery and Funeral Bureau (CFB or Bureau) to establish and administer Abandonment Grant Funding Program, funded by increases to all fees under CFB's authority by 150 percent; requires a cemetery authority to include a fourth quarter bank statement as part of their annual audit report submitted to the CFB; and makes additional changes to existing law governing the oversight of private cemetery businesses.

EXISTING LAW:

1) Establishes the Cemetery and Funeral Act, which provides for the licensing and oversight of 14 professional categories within the death care industry. (Business and Professions Code (BPC) §§ 7600 *et seq.*)

2) Establishes the Bureau within the Department of Consumer Affairs (DCA) to administer and enforce the Cemetery and Funeral Act, subject to review by the Legislature as though it were scheduled to be repealed on January 1, 2025. (BPC § 7602)

3) Exempts religiously-affiliated cemeteries, public cemeteries, and private or fraternal burial parks not exceeding 10 acres in area and established prior to September 19, 1939 from the Bureau's licensing requirements. (BPC § 7612.2)

4) Requires each licensed cemetery authority file with the bureau an annual written report with the following information:

    a) The number of square feet of grave space and the number of crypts and niches sold or disposed of under endowment care by specific periods;

    b) The amount collected and deposited in both the general and special endowment care funds segregated as to the amounts for crypts, niches, and grave space by specific periods as set forth either on the accrual or cash basis at the option of the cemetery authority;

    c) A statement showing separately the total amount of the general and special endowment care funds invested in each of the investments authorized by law and the amount of cash on hand not invested, which statement shall actually show the financial condition of the funds;

    d) A statement showing separately the location, description, and character of the investments in which the special endowment care funds are invested.

e) A statement showing the transactions entered into between the corporation or any officer, employee, or stockholder thereof and the trustees of the endowment care funds with respect to those endowment care funds, including dates, amounts of the transactions, and a statement of the reasons for those transactions.

(BPC § 7612.6(a))

5) Requires that the annual written report be verified by officers of the cemetery corporation, and that it be accompanied by an annual audit report of the endowment care fund and special care fund signed by a certified public accountant or public accountant. (BPC § 7612.6(b))

6) Requires the Bureau to conduct a study to obtain information to determine if the endowment care fund levels of each licensee's cemetery are sufficient to cover the cost of future maintenance and submit its findings to the Legislature by January 1, 2029. (BPC § 7612.11)

7) Requires, for purposes of conducting the endowment care study, each licensed cemetery authority to provide the following information to the Bureau by January 1, 2028:

a) The year the cemetery was established;

b) The total size of the developed and undeveloped acres of the cemetery;

c) The total acreage of the developed cemetery property that has been sold for interment, including preneed sales;

d) The total acreage of land sold for interment that contains spaces for which endowment care fees have been collected;

e) The total acreage of developed cemetery property remaining to be sold;

f) The total acreage of undeveloped cemetery property remaining to be sold;

g) The year the cemetery started collecting endowment care fees;

h) The total number of spaces the cemetery has sold for interment, including preneed sales;

i) The total number of spaces that have contributed to the endowment care funds of the cemetery;

j) The number of interment spaces remaining to be sold in all developed acreage; and

k) The number of interment spaces remaining to be sold in undeveloped acreage, to the extent known.

(BPC § 7612.11(b))

8) Requires that the CFB, on or before July 1, 2027, convene a workgroup comprised of representatives from the cemetery industry, county government, and other interested stakeholders to discuss options for ensuring continued care, maintenance, and embellishment of abandoned cemeteries, including the possibility of requiring counties to assume

responsibility for cemeteries located within their boundaries that become abandoned. (BPC § 7612.12(a))

9) Requires that the CFB, on or before January 1, 2028, submit a report to the Legislature summarizing its discussions and potential recommendations resulting from the workgroup on abandoned cemeteries. (BPC 7612.12(b))

10) Requires that 90 days following the cancellation, surrender, or revocation of a certificate of authority, the CFB shall take title of any endowment care funds of the cemetery authority, take possession of all necessary books, records, property, and assets, and act as conservator over the management of the endowment care funds. (BPC § 7613.11)

11) Declares that upon finding by a court that a cemetery manager of a private cemetery has ceased to perform their duties due to a lapse, suspension, surrender, abandonment or revocation of their license, the court shall appoint a temporary manager to manage the cemetery property. (BPC § 7653.9)

12) Authorizes a cemetery authority to place its cemetery under endowment care and establish, maintain, and operate an endowment care fund. (Health and Safety Code (HSC) § 8725)

13) Requires the principal of all funds for endowment care to be invested and the income only to be used for the care, maintenance, and embellishment of the cemetery in accordance with the provisions of law and the resolutions, bylaws, rules, and regulations or other actions or instruments of the cemetery authority and for no other purpose. (HSC § 8726)

14) Establishes minimum amounts which an endowment care cemetery must deposit into its endowment care fund at the time of, or not later than, completion of the initial sale of internment space in the cemetery. (HSC § 8738)

15) Authorizes a city or county that determines an abandoned cemetery threatens or endangers the health, safety, comfort, or welfare of the public to dedicate such abandoned cemetery as a pioneer memorial park and take over maintenance of the cemetery. (HSC §§ 8825 – 8829)

THIS BILL:

1) Requires that the annual report submitted to the CFB by a cemetery authority include a map of the deceased and their location by parcel, and that the CFB submit the map to the applicable county recorder.

2) Requires that the annual audit report submitted to the CFB by a cemetery authority include a cemetery's fourth quarter bank statement, submitted electronically and directly by the cemetery authority's financial institution.

3) Raises all fees established under the Cemetery and Funeral Act by 150 percent.

4) Defines an "abandoned endowment care cemetery," for purposes of the bill, as a cemetery for which an endowment care fund was maintained, that was formerly licensed by the bureau, and for which the certificate of authority has been canceled, surrendered, or revoked and ownership has not been transferred within one year.

5) Defines a "private entity," for purposes of the bill, as a non-public entity that acquires title to an abandoned endowment care cemetery.

6) Defines a "public cemetery district," for purposes of the bill, as public cemetery district that is formed or reorganized and acquires title to an abandoned endowment care cemetery.

7) Requires the CFB to notify the applicable city, county, or city and county of an abandoned endowment care cemetery in their jurisdiction, including the following cemeteries specifically:

   a) Lincoln Memorial Park Cemetery;

   b) Dambacher Mountain Memorial Cemetery;

   c) Verdugo Hills Cemetery;

   d) Chapel of the Light;

   e) Evergreen Cemetery; and

   f) Mount Tamalpais Cemetery.

8) Upon notification by the CFB, requires a local jurisdiction to, within 120 days, adopt and submit a resolution of application to the local agency formation commission (LAFCO) in the applicable county for a change of organization to form a new public cemetery district or reorganize an existing public cemetery district for the purpose of maintaining the abandoned endowment care cemetery.

9) Requires that the CFB ensure a resolution of application submitted by a local jurisdiction to its respective LAFCO establishes long-term viability for the public cemetery district.

10) Requires that, when a LAFCO receives an application from a local jurisdiction, the CFB shall provide the necessary resources to the jurisdiction to facilitate the process, including resources for preparing documents required by the California Environmental Quality Act (CEQA).

11) Requires the CFB to cover the costs for creating a new public cemetery district or reorganizing an existing public cemetery district, including costs associated with the following:

   a) The LAFCO process;

   b) The Department of Fish and Wildlife;

   c) The county clerk and recorder; and

   d) The State Board of Equalization.

12) Requires the LAFCO to determine whether to form a new public cemetery district or reorganize an existing public cemetery district to maintain the abandoned endowment care cemetery within one year of receiving an application from a local jurisdiction.

13) Requires the CFB, after a determination is made by the LAFCO, to work with the vacated owner or the county assessor to secure the title of the abandoned cemetery to ensure that fee title of the abandoned endowment care cemetery ultimately vests in the public cemetery district.

14) Requires the CFB to establish and administer the "Abandonment Grant Funding Program," to be funded by 50 percent of moneys collected from licensing fees, in order to provide long-term viability to ensure services are maintained for abandoned endowment care cemeteries.

15) Authorizes the CFB to use Abandonment Grant Funding Program funds to cover the reasonable costs of administering the program.

16) Requires that a public cemetery district shall have access to the endowment fund of the applicable abandoned endowment care cemetery, including principal and interest, and Abandonment Grant Funding Program funding to manage cemetery maintenance, burial services, and security items, and to address issues, including, but not limited to, prior repairs, deferred maintenance, or vandalism of property or gravesites, as necessary.

17) Requires the public cemetery district to determine the hours of operation, maintenance schedules, embellishment, and modicum of security, including gate locks, cameras, or alarms.

18) Authorizes a private entity licensed by the CFB acquire title to an abandoned endowment care cemetery, and to manage the cemetery's endowment care trust fund, including principal and interest, should they acquire the title.

19) Authorizes the CFB to provide funds from the Abandonment Grant Funding Program to a private entity that acquires title to an abandoned endowment care cemetery.

20) Requires a public cemetery district or private entity that acquires title to an abandoned endowment care cemetery to keep a record of, and honor, all remaining contracts for burial executed by the prior cemetery authority.

21) Establishes that public cemetery district or a private entity that acquires title to an abandoned endowment care cemetery shall not be responsible for any actions of the vacated owner, including, but not limited to, mismanagement of the endowment fund or cemetery.

22) Makes various findings and declarations.

FISCAL EFFECT: According to the Senate Appropriations Committee, the prior version of this bill had the following fiscal impacts:

1) The Bureau would incur minor and absorbable costs of less than $10,000 to develop procedures for the transfer of the title of cemetery endowment care funds to local agencies and create a new status code within its IT systems. (Cemetery and Funeral Fund)

2) Unknown, potentially significant state-reimbursable local costs for cities, counties, or special districts that are designated by LAFCOs to take title of abandoned cemeteries and provide for the ongoing operations and maintenance of those cemeteries. Staff notes that the bill authorizes those local agencies to use funds from liquidated assets of the abandoned

cemetery for the care, maintenance, and embellishment of the cemetery. To the extent the proceeds from those assets are insufficient to cover ongoing operations and maintenance, local agency costs would likely be state-reimbursable, subject to a determination by the Commission on State Mandates. (General Fund)

COMMENTS:

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

> This bill is very personal to my constituents and families in my district. Lincoln Memorial Park Cemetery in Carson City that was founded in 1934 has become abandoned by the owner and manager since 2023, due to health care issues. Since then the cemetery has been subject to vandalism, theft and desecration of burial plots. There are 187 private cemeteries in the State of California that are subject to abandonment. However, when cemeteries lose owners, they are without protection. The Private Cemeteries Act regulates the ownership, control, and maintenance of private cemeteries in the state. Currently, the bureau manages the endowment fund accounts of an abandoned cemeteries, and maintains the contracts for burials, but it is not responsible for the care and maintenance of the property itself. As a result, activities necessary for the care of the cemetery grounds often fall to loved ones of those interred or other volunteers, which often have limited capacity and resources to maintain the grounds. Abandoned endowment care cemeteries can become public nuisances and challenging or dismaying for family members that want to visit their loved ones. It also becomes an eye soar for the communities and will also depreciate the value of other properties in the City or County.

Background.

Cemetery and Funeral Bureau. The CFB was established in 1995 when the previously distinct Cemetery Board and Board of Funeral Directors and Embalmers were merged into a consolidated program under the DCA. As a bureau under the DCA, the CFB is charged with administering and enforcing the Cemetery and Funeral Act. A voluntarily established Advisory Committee, comprised of representatives of both the industry and the public, assists the CFB in engaging consumers and licensees in its regulatory activities.

The CFB oversees 14 different professional categories within the so-called "death care" industry, with approximately 11,315 licensees currently active with the CFB. The CFB's licensing program includes funeral establishments and directors; embalmers and apprentice embalmers; cremated remains disposers, crematories, crematory managers, and hydrolysis facilities; cemetery managers, brokers, branches, and salespersons; and certain private, nonreligious cemeteries. Beginning in 2027, the CFB will also license reduction facilities. The CFB is additionally tasked with the fiduciary responsibility of overseeing more than three billion dollars in funds held and invested by funeral establishments and cemeteries, including endowment care funds and preneed trust funds.

The CFB plays a vital role in protecting consumers from fraud, negligence, and other misconduct in the course of obtaining cemetery and funeral services, a time when consumers are frequently grieving and vulnerable to dishonest dealings. In its enforcement of the Cemetery and Funeral Act, the CFB is authorized to inspect any premises in which the business of a funeral establishment, reduction facility, cemetery, or crematory is conducted; where embalming is practiced; or where human remains are stored. The CFB is then empowered to take disciplinary

action against a licensee for violations of the law. The Cemetery and Funeral Act declares that protection of the public shall be the Bureau's highest priority.

As it relates to the cemeteries it licenses, it is important to note that the CFB's authority is exclusively over privately owned cemeteries. Public cemeteries, those owned by religious corporations, and cemeteries established prior to 1939 with under 10 acres who do not collect an endowment care fund, are exempt from CFB oversight. Of the hundreds, if not thousands, of cemeteries within the state of California, the CFB only regulates 192 licensed cemeteries operated by private business owners, the majority of which are opened to the public for burials.

Endowment Care Funds. A licensed cemetery's endowment care fund is comprised of consumer deposits for each space sold within the cemetery, and the accumulated income generated on those deposits from investments. Investment decisions must be conservative and are limited under the Cemetery and Funeral Act. Only the accumulated income portion of the fund may be spent on the care, maintenance, and embellishment of the cemetery.

Each year, a cemetery authority must submit a written report with the CFB that includes a detailed accounting of its endowment care activities and fund management. It must include the number of grave spaces, crypts, and niches sold under endowment care, the amounts collected and deposited into general and special endowment care funds, detailed statements of fund investments and financial condition, and disclosures of any transactions involving fund trustees and affiliated parties. The report must be verified by corporate officers and accompanied by an independent audit of the endowment and special care funds signed by a public accountant.

The Cemetery and Funeral Act authorizes Bureau oversight of an endowment care fund, including requirements regarding the number of days deposits must be made into the fund, proper and allowable investments, mandated annual independent audits of funds, and annual reporting to the CFB. The Act also allows the CFB to take possession of the fund and act as the conservator under certain conditions, including if there is probable cause to believe that irreparable loss and injury to the endowment care funds of a cemetery authority has occurred, or may occur, unless the Bureau takes immediate action. As part of reforms enacted in the CFB's 2024 sunset bill (AB 3254, Berman, Chapter 589, Stats. of 2024), the Bureau was further granted authority to conserve an endowment care fund when a previously licensed cemetery becomes unlicensed due to abandonment, cancellation, surrender, or revocation of the license, and also authorized the CFB to conserve the endowment care fund when a cemetery authority voluntarily surrenders the fund to the Bureau. According to the CFB, some cemeteries have voluntarily surrendered their endowment care funds to the Bureau to avoid the annual audit costs as they transition to fewer employees and limited public access hours.

Among other substantive changes to the CFB's authority and oversight related to abandoned endowment care funds, this bill adds requirements to the annual written report filed by cemetery authorities to the Bureau. Specifically, this bill requires that the annual report must include a map of the deceased and their location by parcel, and that the CFB must submit this map to the applicable county recorder. Further, the bill requires that the annual independent audit report of the endowment care fund also include a cemetery's fourth quarter bank statement, to be submitted electronically and directly by the cemetery authority's financial institution to the CFB.

Abandoned Cemeteries in California. The issue of abandoned private cemeteries, and what can be done to ensure that older cemeteries are appropriately and respectfully maintained by another

entity after they have been abandoned, has been a long-debated issue in the Legislature throughout the last decade. AB 180 (Bonilla, Chapter 395, Statutes of 2015) directed the CFB to conduct a study to obtain information to determine if the endowment care levels of each cemetery the CFB licenses are sufficient to cover the cost of future maintenance. The issue of abandoned cemeteries was further discussed in the 2019 and 2024 Joint Sunset Reviews of the CFB conducted by this Committee and the Senate Committee on Business, Professions and Economic Development, with further studies and reforms resulting from the sunset processes.

The 2017 Endowment Care Sufficiency Study found that at least 43 licensed cemeteries have an underfunded endowment care fund with limited spaces to sell. The report concluded that, although endowment care cemeteries deposit at least the minimum amounts required by law, there is still a substantial statewide shortfall. In fact, some deposited more than the minimum amount required by law, but it was still found that statewide the costs of maintaining California's privately-owned cemeteries exceeds the income generated from the cemeteries' endowment care trusts. The study pointed out that for at least 21 of the licensed cemeteries, endowment care income appears to be sufficient to cover the long-run costs of maintaining the endowment care spaces they have already sold, but for the large majority of licensed cemeteries, the endowment care income is not sufficient to cover the endowment care spaces they have already sold, and long-run sufficiency will require more significant trust growth.

There are two distinct drivers of the problem: older cemeteries have limited spaces remaining to sell and endowment funds are inadequate to perpetually maintain cemeteries that have since sold all available plots. Because these cemeteries are private businesses, properties that no longer generate revenue become abandoned if they cannot be sold, or they are abandoned following disciplinary measures by the CFB, including revocation of a license. The result is an unlicensed, abandoned cemetery where the resting places of the dead are not treated with dignity.

A recent example of the devastation this situation can cause is the cancelation of the license and subsequent abandonment of Lincoln Memorial Park Cemetery in Carson, California, part of the author's district. In August 2023, the CFB began receiving information from the public that the cemetery had closed its gates. Upon investigation, the Bureau confirmed that the cemetery was no longer being maintained by the cemetery manager and cemetery authority, who requested cancelation of their licenses. The community was devastated as public access for family members had been limited and there was no local entity to oversee new internments of loved ones who had passed away who had previously purchased a plot in the cemetery. Neither the City of Carson nor Los Angeles County were able to assist in providing ongoing care to the abandoned cemetery.

Control of Abandoned Cemeteries. Currently, when a private cemetery that has not interred more than 10 human bodies in the preceding five years threatens or endangers the health, safety, comfort, or welfare of the public, statute allows (but does not require) a city or county to declare that cemetery abandoned. The abandoned cemetery is then declared a pioneer memorial park and is maintained by the city or county. This statute, however, only applied to those abandoned cemeteries that never collected endowment care funds—in other words, cemeteries established prior to 1939.

The Act only provides for two options for maintenance by a private cemetery by an entity other than the licensee. One statute authorizes a court to appoint a temporary licensed cemetery manager to manage the property and serve prepaid internments, or the county if there is no

appointed temporary manager. The Bureau states that typically when a cemetery is within city limits, a county will not utilize this section and defer to the city (as occurred with Lincoln Memorial Park Cemetery). Statute additionally allows a city or county to perform maintenance within a cemetery when its license has been revoked, suspended, or not renewed. This law only applies to maintenance necessary to protect the health and safety of the public. In other words, while dry weeds creating a fire hazard would be addressed, the law does not provide for cosmetic upkeep to grounds and embellishments, which while not a matter of safety are important for communities whose families are interred in the cemetery.

In all of the above cases, local governments are not *required* to take action following the abandonment of a cemetery, but are merely *permitted* to under certain circumstances. The Bureau has previously pointed out that when a cemetery is proposed to be created, the local government in which it will be situated has to authorize and zone a parcel of land as cemetery property with approval to intern decedents. Local authorities are responsible for determining whether a piece of property within their communities will be dedicated as cemetery property, and local governments know that there is no guarantee a private cemetery business will remain active forever.

In its 2024 Sunset Review Report, the CFB suggested that the Legislature consider amending current statute to vest the responsibility of perpetual care with the jurisdiction that authorized the underlying use upon abandonment of a cemetery, contending that local governments—who initially permitted and zoned the private cemetery with full knowledge that they may eventually cease private operations—should ultimately be responsible for the cemetery's perpetual care. Such a mandate, however, may create challenges with local governments who argue that a lack of resources would not allow them to successfully assume responsibility for all private cemeteries within their boundaries.

Recognizing that the importance of this issue necessitates a thorough discussion of all potential options, AB 3254 (Berman, Chapter 589, Stats. of 2024) required the CFB, by July 1, 2027, to convene a workgroup comprised of representatives from the cemetery industry, county government, and other interested stakeholders to discuss options for ensuring continued care, maintenance, and embellishment of abandoned cemeteries, including the possibility of requiring counties to assume responsibility for cemeteries located within their boundaries that become abandoned. The Bureau shall report on the workgroup's discussions and recommendations no later than January 1, 2028 in advance of its next sunset review.

Arguing that the increasingly squalid condition of abandoned cemeteries in her district and throughout the state requires urgent action, the author has put forward this measure to immediately address the issue of abandoned cemeteries. As most recently amended, the bill establishes a new process whereby local governments assume control of abandoned endowment care cemeteries, funded via a new grant program administered by the CFB with money collected as part of an increase to every fee under the Bureau's jurisdiction.

Specifically, the bill establishes that, after an endowment care cemetery has not had an active license for a year, the cemetery is considered abandoned. The CFB will then be required to notify the city, county, or city and county that has jurisdiction over the respective cemetery that it has become an "abandoned endowment care cemetery". The bill also names six cemeteries that the provisions are applicable to specifically: Lincoln Memorial Park Cemetery in Carson, Dambacher Mountain Memorial Cemetery in Sonora, Verdugo Hills Cemetery in Tujunga,

Chapel of the Light Cemetery in Fresno, Evergeen Cemetery in Los Angeles, and Mt. Tamalpais Cemetery in San Rafael. After 120 days of receiving the notification, the respective local jurisdiction will then apply to their local agency formation commission (LAFCO), the governing body responsible for forming specialized local agencies such as public cemetery districts. The LAFCO then has a year to make a determination on the application, including whether an existing public cemetery district can be reorganized to assume responsibility of the abandoned cemetery, or if a new public cemetery district must be created. The bill further establishes that a private entity that is already licensed by the CFB may acquire the title to an abandoned endowment care cemetery.

To aid in facilitating the LAFCO process, the bill creates an "Abandonment Grant Funding Program," which is funded by increasing all fees under the CFB's authority by 150 percent and allocating half of money collected from fees into the fund. According to the bill, the CFB is required to use the fund to cover all costs associated with creating or reorganizing a public cemetery district, including costs associated necessary permits from the Department of Fish and Wildlife, the State Board of Equalization, and the respective county clerk and recorder.

Current Related Legislation. SB 344 (Weber-Pierson) would clarify that, in addition to bridges and docks, cremated or hydrolyzed human remains cannot be scattered from a "dock attached to a shore." *This bill is pending in the Assembly Committee on Appropriations.*

Prior Related Legislation. AB 3254 (Berman), Chapter 589, Statutes of 2024 extended the sunset date for the Bureau and required the Bureau to convene a workgroup of interested stakeholders to make recommendations relating to abandoned cemeteries.

ARGUMENTS IN SUPPORT:

There is no support on file.

ARGUMENTS IN OPPOSITION:

This bill is opposed by the *Cemetery and Mortuary Association of California,* who writes: "The financial burden of operating an abandoned cemetery with no room for further interments, is akin to a park, and should be financed by general funds at the local, regional and/or state level. This has recently been done in another state," and further argues "The legislation preempts the law that requires the licensing bureau to review and prepare recommendations to the Legislature on endowment care funds for its consideration in the next sunset review process. That has not yet been initiated."

This bill is opposed by the *California State Association of Counties (CSAC), the Urban Counties of California (UCC), the Rural County Representatives of California (RCRC), the California Special Districts Association (CSDA),* and the *League of California Cities*. In a coalition letter addressed to the Committee, these organizations write: "Just like the state, local agencies are facing serious fiscal constraints that are forecasted to only worsen as the months progress. While we appreciate efforts to ensure that there are some resources available to manage these facilities, we assert that the process laid out in SB 777 has some significant flaws, particularly when we consider that such a transfer of ownership means that local taxpayers are responsible for an abandoned endowment care cemetery forever. These costs are significant and include burial services, deferred maintenance, security, and new liabilities."

POLICY ISSUES:

Prematurity. As described throughout the background portion of this analysis, the Legislature has long deliberated the issue of abandoned endowment care cemeteries and how to best ensure their continued maintenance and care. Over the course of two Joint Sunset Reviews, this Committee and the Senate Committee on Business, Professions, and Economic Development deeply researched and discussed the topic with a wide variety of stakeholders: DCA and CFB leadership, impacted community members, cemetery and funeral service licensees, local governments, and more. While the Committees ultimately came to the general conclusion that authority and maintenance of these abandoned cemeteries should be overseen by local governments, as this bill suggests, they suggested a far more intentional process to get there. In recognizing the complicated, multi-faceted and consequential nature of this endeavor, the CFB's 2024 Sunset Bill (AB 3254, Berman, Chapter 589, Stats. of 2024) required the Bureau to convene a working group that involves representatives from all impacted stakeholders by July 1, 2027, and for that working group to provide a report to the Legislature with recommendations on how to deal with abandoned cemeteries no later than January 1, 2028.

This bill supersedes that process by instead, effective January 1, 2026, creating, and requiring the CFB to administer and implement, the entire regulatory and funding process under which they will designate local governments to assume responsibility of abandoned cemeteries. Outside of specific policy questions and concerns related to the approach as described in this bill, there is a wider concern that this bill undermines the deliberate process undertaken by this very Committee one year ago. Additionally, this bill makes significant changes to the CFB's fee authority and administration that are usually reserved for the Joint Sunset Review process or wider committee omnibus bills. The sunset process involves analysis of past and current fee schedules, bureau fund conditions, licensee populations, industry trends, and more to ultimately determine the appropriate amount—and timing—of relevant fee adjustments. In raising all fees collected by the CFB by 150 percent, effective January 1, this bill thwarts the long-standing process by which this body traditionally adjusts fees on licensees under the DCA.

Abrupt and disproportionate fee increases. Aside from concerns around the process by which this bill goes about raising fees, the actual fee amounts set forth under this bill are alarming and very significant. Every fee that the CFB is currently tasked with charging to licensees is increased by 150 percent in this bill. For instance, fees related to private cemetery management will increase as follows:

- The application fee to obtain a certificate of authority over a cemetery would see an increase of over $1,000, from $750 currently to $1,875 under this bill.
- The fee for the cemetery manager examination would see an increase of over $1,000, from $800 currently to $2,000 under this bill.
- The renewal fee for a cemetery manager license would see an increase of over $200, from $150 currently to $375 under this bill.
- The fee for a timely filing of an annual report on an endowment care fund would see an increase of $750, from $500 currently to $1,250 under this bill.

As mentioned previously, one of the primary drivers of depreciating fund conditions in private endowment care cemeteries is the inherently expensive nature of upkeep relative to the negligible revenue brought in by a private cemetery, especially if the cemetery is running out of

space for plots to sell. There is concern that such a sudden and burdensome fee increase will only serve to hasten the ongoing financial problems facing private cemeteries across the state.

There is also a disproportionate nature in the intended use of fees assessed. Under this bill, 50 percent of the money collected from the increased fees shall be directed to the "Abandonment Grant Funding Program" which is intended to support local governments in the process of permitting, acquiring, and maintaining endowment care cemeteries that were abandoned. In other words, a significant portion of the fees that currently licensed, operative cemetery and funeral operators pay to maintain their active businesses will go toward upkeep of an entirely different, abandoned business. In addition, the 150 percent fee increases established in this bill affect every single license, registration, or application fee collected by the CFB, regardless of the type of business within the death care industry a licensee conducts. This means businesses that are specifically *not* involved in the burial of the dead—crematories, hydrolysis facilities, reduction facilities, and more—will also be burdened with significantly increased operational cost to pay for a grant program that, in essence, has nothing to do with their practice in the death care industry.

Unclear local process. The author has stated that the intent of this bill is to entrust the ultimate long-term care of abandoned private endowment care cemeteries to local governments, who can continue to conduct operations for members of the community and maintain the grounds in perpetuity. It is unclear, however, if the bill as written will actually result in that outcome. Specifically, the bill requires the CFB to notify the local government that has jurisdiction over an abandoned cemetery, who will then apply to their local agency formation commission (LAFCO) to either form a new public cemetery district, or reorganize an existing one, to take over the abandoned cemetery. The LAFCO would then have a year to make a determination regarding the local application. It is unclear, however, what will happen in the instance that a LAFCO rejects the application to either form or reorganize a public cemetery district. In these cases, the CFB and local jurisdictions will have undergone extensive, multi-year process, and spent money from the Abandonment Grant Funding Program, only to still end up without a responsible entity to take over the respective abandoned cemetery.

AMENDMENTS:

Strike current contents of the bill and replace with the following amendments to Section 7612.12:

> 7612.12. (a) On or before ~~July 1, 2027~~ *March 1, 2026*, the bureau shall convene a workgroup comprised of ~~representatives from the cemetery industry, county government, and other~~ interested stakeholders *including but not limited to the California Local Agency Formation Commissions (CALAFCO), the California League of Cities, the California State Association of Counties (CSAC), the Urban Counties of California, the Rural County Representatives of California (RCRC), public cemetery representatives, and legislative staff of appropriate committees of the Legislature,* to discuss options for ensuring continued care, maintenance, and embellishment of abandoned cemeteries, including the possibility of requiring counties to assume responsibility for *maintenance, irrigation, public works, and burial services for* cemeteries located within their boundaries that become abandoned.

(b) In accordance with Section 9795 of the Government Code, the bureau shall submit a report to the Legislature summarizing the discussions of the workgroup~~, along with any~~ *and its* recommendations, no later than ~~January~~ *June* 1, ~~2028~~ *2026*.

(c) This section shall remain in effect only until January 1, ~~2029~~ *2027*, and as of that date is repealed.

REGISTERED SUPPORT:

None on file

REGISTERED OPPOSITION:

California Special Districts Association
California State Association of Counties
Cemetery and Mortuary Association of California
County of Butte
County of Marin
League of California Cities
Local Agency Formation Commission for the County of Los Angeles
Local Agency Formation Commission of Napa County
Rural County Representatives of California
Sacramento Local Agency Formation Commission
San Bernardino County
Urban Counties of California

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

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 790 (Cabaldon) – As Amended June 26, 2025

NOTE: This bill is double referred and previously passed the Assembly Higher Education Committee, 9-1.

SENATE VOTE: 34-0

SUBJECT: Postsecondary education: interstate reciprocity agreements for distance education: out-of-state postsecondary educational institutions

SUMMARY: Authorizes the Governor to enter into an instate reciprocity agreement for the authorization and oversight of distance education pursuant to specified conditions; requires the Governor to designate a portal entity to administer an interstate reciprocity agreement; requires public and accredited nonprofit postsecondary institutions to register with the Bureau for Private Postsecondary Education (BPPE or bureau) beginning January 1, 2028, unless the institution has approval to operate in California pursuant to an interstate reciprocity agreement; requires out-of-state schools registered with the bureau to notify the bureau of investigations resolved by settlement agreements; modifies the bureau's protocol for suspending student enrollments during an investigation of an institution; and prohibits out-of-state postsecondary institutions from engaging in enumerated deceptive business practices.

EXISTING 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 Bureau for Private Postsecondary Education (BPPE or bureau) within the Department of Consumer Affairs to regulate private postsecondary educational institutions. (EDC § 94820)

3) Defines "private postsecondary educational institution" as a private entity with a physical presence in California that offers postsecondary education to the public for an institutional charge. (EDC § 94858)

4) Exempts the following institutions from the Act:

    a) An institution offering programs solely for the purpose of personal entertainment, pleasure, or enjoyment.

    b) An institution offering educational programs sponsored by a bona fide trade, business, professional, or fraternal organization, solely for that organization's membership.

    c) A postsecondary educational institution established, operated, and governed by the federal government or by the government in California.

d) An institution offering either test preparation for postsecondary education admissions examinations, or continuing education or license examination preparation.

e) An institution owned, controlled, and operated and maintained by a religious organization lawfully operating as a nonprofit religious corporation, limited to education relevant to the beliefs and practices of the church, religious denomination, or religious organization.

f) An institution that does not award degrees and that solely provides educational programs for total charges of $2,500 or less when no part of the total charges is paid from state or federal student financial aid programs.

g) 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 that is subject to the approval, regulation, and oversight of the Committee of Bar Examiners.

h) A nonprofit school organized specifically to provide workforce development or rehabilitation services that is accredited by the Department of Rehabilitation.

i) An institution that is accredited by the Accrediting Commission for Senior Colleges and Universities, Western Association of Schools and Colleges, or the Accrediting Commission for Community and Junior Colleges, Western Association of Schools and Colleges.

j) Flight instruction providers or programs that provide flight instruction pursuant to Federal Aviation Administration regulations.

k) An institution owned by a nonprofit community-based organization that does not award degrees and does not offer educational programs designed to lead to licensure, and that would not have been subject to oversight if it did not receive funding under the federal Workforce Innovation and Opportunity Act.

(EDC §94874)

5) Prohibits the bureau from verifying an exemption, or contract for the complaint handling for, a nonprofit institution that operated as a for-profit institution during any period on or after January 1, 2010, unless the Attorney General verifies specified information. (EDC § 94874.1)

6) Requires institutions exempt from the Act to still comply with laws relating to school closure and laws relating to fraud, abuse, and false advertising. (EDC § 94874.9(a))

7) Defines “out-of-state private postsecondary educational institution” as a private entity without a physical presence in this state that offers distance education to California students for an institutional charge, regardless of whether the institution has affiliated institutions or institutional locations in California. (EDC § 94850.5)

8) Requires the BPPE to adopt regulations establishing minimum operating standards for private postsecondary educational institutions. (EDC § 94885)

9) Prohibits a person from opening, conducting, or doing business as a private postsecondary educational institution in this state without obtaining an approval to operate from the bureau. (EDC § 94886)

10) Authorizes the BPPE to grant approval to operate only after an applicant has presented sufficient evidence to the bureau, and the bureau has independently verified the information provided by the applicant through site visits or other methods deemed appropriate by the bureau, that the applicant can satisfy the minimum operating standards; requires the BPPE to deny an application for an approval to operate if the application does not satisfy those standards. (EDC § 94887)

11) Provides that a standard approval to operate shall be valid for five years. (EDC § 94888)

12) Requires the BPPE to grant an institution that is accredited an approval to operate by means of its accreditation. (EDC § 94890)

13) Prohibits a private postsecondary educational institution from doing any of the following:

    a) Use of the Great Seal of the State of California on a diploma.

    b) Promising or guaranteeing employment, or overstating the availability of jobs upon graduation.

    c) Advertising concerning job availability, degree of skill, or length of time required to learn a trade or skill, unless the information is accurate and not misleading.

    d) Advertising, or indicating in promotional material, without including the fact that the educational programs are delivered by means of distance education.

    e) Advertising, or indicating in promotional material, that the institution is accredited if it is not.

    f) Soliciting students for enrollment by causing an advertisement to be published in "help wanted" columns in a magazine, newspaper, or publication, or using "blind" advertising that fails to identify the institution.

    g) Offering to compensate a student to act as an agent of the institution with regard to the solicitation, referral, or recruitment of any person for enrollment in the institution.

    h) Paying any consideration to a person to induce that person to sign an enrollment agreement.

    i) Using a name in any manner improperly implying that the school is affiliated with a government agency, is a public institution, or grants degrees if it does not.

    j) In any manner making an untrue or misleading statement related to a test score, grade or record of grades, attendance record, record indicating student completion, placement, employment, salaries, or financial information.

k) Willfully falsify, destroy, or conceal any document of record.

l) Using the terms such as "approval" without stating clearly and conspicuously that approval to operate means compliance with state standards.

m) Directing any individual to perform an unlawful act, to refrain from reporting unlawful conduct to the BPPE, or to engage in any unfair act to persuade a student not to complain.

n) Compensating an employee involved in recruitment, enrollment, admissions, student attendance, or sales of educational materials to students based on a commission, commission draw, bonus, quota, or other similar method related to the recruitment, enrollment, admissions, student attendance, or sales of educational materials to students.

o) Requiring a prospective student to provide personal contact information to obtain, from the institution's website, educational program information that is required to be contained in the school catalog.

p) Offering an associate, baccalaureate, master's, or doctoral degree without disclosing to prospective students prior to enrollment whether the institution or the degree program is unaccredited and any known limitations of the degree.

(EDC § 94897)

14) Establishes the Student Tuition Recovery Fund (STRF) to relieve or mitigate economic loss suffered by a student while enrolled in an institution at the time that institution, location, or program was closed or discontinued. (EDC § 94923)

15) Establishes the Office of Student Assistance and Relief (OSAR) to advance and promote the rights of prospective students, current students, or past students of private postsecondary educational institutions. (EDC § 94949.7)

16) Allows a public institution of higher education that is operated by another state, and that maintains a physical presence in California to apply for an approval to operate from the bureau. (EDC § 94949.8)

17) Defines "independent institutions of higher education" as nonpublic higher education institutions that grant undergraduate degrees or graduate degrees and are accredited by an agency recognized by the United States Department of Education. (EDC § 66010(b))

18) Authorizes an independent institution of higher education that is exempt due to its accreditation status to execute a contract with the bureau for the bureau to review and, as appropriate, act on complaints concerning the institution. (EDC § 94874.9(b))

19) Requires an out-of-state private postsecondary educational institution, except an accredited nonprofit, as specified, to register with the bureau, pay a fee, provide specified information, and comply with certain reporting requirements. (EDC § 94801.5)

20) 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. (34 Code of Federal Regulations § 600.9)

THIS BILL:

1) Defines the following:

   a) "Commission" means the Western Interstate Commission for Higher Education, including the Western State Authorization Reciprocity Agreement steering committee of the commission, or another group of states or United States territories organized in an interstate reciprocity agreement.

   b) "Interstate reciprocity agreement" means an interstate reciprocity agreement for the authorization and oversight of distance education.

   c) "National coordinating council" means the National Council for State Authorization Reciprocity Agreements, or its successor.

   d) "Participating institution" means an institution of higher education with a physical presence in the state that has been approved to operate under an interstate reciprocity agreement.

   e) "Portal entity" means the agency, department, or office designated to service as the portal entity if the Governor enters into an interstate reciprocity agreement.

2) Authorizes the Governor to enter into one or more reciprocity agreements through a compact on behalf of the state upon completion of both of the following:

   a) Issuing a written finding of all of the following:

      i) The interstate reciprocity agreement and its implementation will not interfere with, and does not affect, the authority of the Attorney General or any other state or local agency to enforce any statutes or regulations prohibiting consumer fraud and unfair or deceptive business practices or the authority of the state to suspend or terminate the operation in the state of any entity subject to the interstate reciprocity agreement pursuant to state law.

      ii) The interstate reciprocity agreement does not prevent the Attorney General or any other state or local agency from applying and enforcing Section 94897 with respect to out-of-state postsecondary educational institutions that participate in the reciprocity agreement.

      iii) The interstate reciprocity agreement allows the state, notwithstanding any reciprocal authorization, to require an out-of-state postsecondary educational institution, upon providing notice of at least six months, to register and be subject to the provisions of Section 94801.5, in order to protect students, prevent misrepresentation to the public, or prevent the loss of funds paid from public resources or student tuition.

iv) The interstate reciprocity agreement does not apply to a course offered onsite to students at a military installation in the state, even if the course at that physical location is offered to students in other locations.

v) The commission and national coordinating council are committed to preserving standards and protections that have been promulgated by the federal government and are the basis of the interstate reciprocity agreement, even if those standards or protections are subsequently diminished or withdrawn by federal law or action of the United States Department of Education, and the commission is committed to developing meaningful performance metrics and frameworks for best practices with regard to individual state authorization activities.

vi) Within one year of the effective date of the state's entry into the interstate reciprocity agreement, the Bureau for Private Postsecondary Education will establish a process to ensure that postsecondary educational institutions exempt from the California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10) pursuant to Section 94874, may participate in the interstate reciprocity agreement without impacting the postsecondary educational institution's exempt status.

vii) Participating states have the necessary authority and resources to investigate complaints and take appropriate action.

viii) The reciprocity agreement does not prohibit the state from accepting complaints from California students that have not first been submitted to the institution that is the subject of the complaint.

ix) The interstate reciprocity agreement does not delegate independent legal authority over the state or its participating postsecondary educational institutions to any other entity or otherwise authorize assumption of that legal authority by any other entity other than the state or its subdivisions, including by providing any nonstate entity with the authority to reverse or veto a decision by the state to suspend or terminate an in-state's institution's certification to participate in a reciprocity agreement.

x) The interstate reciprocity agreement may be modified by the commission only with the approval of the Governor.

b) After issuing the findings required by subdivision (a), a joint hearing on the agreement held by the Assembly Committee on Business and Professions, the Assembly Committee on Higher Education, the Senate Committee on Business, Professions and Economic Development, and the Senate Committee on Education at which a representative from the commission shall testify and members of the public shall be encouraged to testify on the agreement and the Governor's written findings.

3) Requires the Governor to designate a state agency, department, or office for the implementation of an interstate reciprocity agreement, to serve as the portal entity if the Governor enters into an interstate reciprocity agreement.

4) Authorizes a postsecondary educational institution to apply to the portal entity for approval to operate under an interstate reciprocity agreement using a standard application developed pursuant to the interstate reciprocity agreement.

5) Authorizes the portal entity to establish a reasonable fee to be paid by a participating postsecondary educational institution. The amount of the fee must be limited to the reasonable regulatory costs incurred by the portal entity.

6) Requires the portal entity to enter into a memorandum of understanding with the Chancellor of the California State University, the Chancellor of the California Community Colleges, the presidents of the independent California colleges and universities as represented by the state association representing the largest number of those members, and, if appropriate, the BPPE.

7) Requires, upon resolution of the Regents of the University of California, the portal entity to enter into a memorandum of understanding with the President of the University of California.

8) Specifies that a memorandum of understanding must delegate functions and responsibilities among the parties, provide for reimbursement of expenses, and not weaken existing student privacy and confidentiality protections.

9) Requires the Board of Governors of the California Community Colleges to investigate and resolve complaints involving participating community colleges that may arise pursuant to the interstate reciprocity agreement.

10) Requires the bureau to investigate and resolve complaints that may arise pursuant to the interstate reciprocity agreement involving participating private postsecondary educational institutions that are either of the following:

    a) Approved to operate pursuant under current law.

    b) Exempt from the California Private Postsecondary Education Act of 2009 but elect to participate in the interstate reciprocity agreement pursuant to terms and conditions established by the bureau to implement the memorandum of understanding and this bill.

11) Requires the portal entity to ensure that it and participating postsecondary educational institutions have clear and well-documented policies for addressing catastrophic events in a manner that protects students as consumers, including the protection of student records. The California Private Postsecondary Education Act of 2009 (Chapter 8 (commencing with Section 94800) of Part 59 of Division 10), and regulations adopted pursuant to that act, constitute those policies for participating private postsecondary educational institutions approved to operate by the bureau

12) Requires the portal entity to work cooperatively with other states in the interstate reciprocity agreement and the commission to enable the success of the interstate reciprocity agreement. The Chancellor of the California State University, the Chancellor of the California Community Colleges, and the presidents of the independent California colleges and universities, and, if appropriate, the BPPE, must document all formal complaints received, complaint notifications provided to participating postsecondary educational institutions and

accrediting agencies, actions taken that are commensurate with the severity of the violations, and complaint resolutions. Each entity must promptly report a complaint or concern to the postsecondary educational institution, the portal entity, and, where appropriate, the accrediting agency.

13) Strikes "private" from the term "out-of-state private postsecondary education institution" and revises the definition to include public entities without a physical presence in California that offer distance education to California students for an institutional charge.

14) Requires out-of-state public postsecondary institutions to register with the bureau, pay a fee, and comply with specified requirements. Exempts public and nonprofit postsecondary institutions from the requirement to register with the bureau until January 1, 2028. Beginning January 1, 2028, exempts public or nonprofit institutions approved pursuant to an interstate reciprocity agreement to which the state is a party.

15) Requires out-of-state postsecondary institutions to report, at the time of initial registration by the bureau, whether or not the institution, or a controlling officer of, or a controlling interest or controlling investor in, the institution or its parent company has been subject to an investigation resolved via a settlement agreement. Registered institutions must report investigations resolved via settlement agreement within 30 days of the occurrence and provide the bureau with a copy of the settlement agreement.

16) Repeals the existing process for the bureau to permit or suspend the enrollment of new students during an investigation of an out-of-state postsecondary education following notice of specified events and instead authorizes the bureau, after receipt of such notice, or after determining that such notice should have been provided, to seek additional information and notify the institution regarding whether the institution must suspend enrolling new students, and whether other actions are needed to protect California residents.

17) Repeals an outdated operative date and makes other technical, non-substantive changes.

FISCAL EFFECT: According to the Senate Appropriations Committee, the prior version of this bill was anticipated to have the following fiscal effect:

1. Unknown ongoing significant costs to the agency, department, or office the Governor designates as the portal entity. The bill states legislative intent for the portal entity to adopt as many of the duties and responsibilities of the former CPEC. For comparison, the 2011-12 Governor's Budget proposed approximately $1.9 million to support CPEC's operations at that time before funding for the commission was ultimately vetoed. The designated portal entity will likely require similar resources, but total costs will depend on, among other things, the extent additional workload to implement an IRA and oversee distance education may be absorbed within the entity's current resources. Fees from participating educational institutions will offset the portal entity's regulatory costs to some extent; however, initial costs will likely be borne from the General Fund (GF) until sufficient revenue is collected to support ongoing operations.

   While the bill does not specify what state agency may be designated as the portal entity, the Bureau for Private Postsecondary Education (BPPE) is most similar in related mission

to the stated intent of the proposed portal entity. If BPPE were to be designated as the portal entity, it would incur significant costs that may exacerbate the bureau's main fund, the Private Postsecondary Education Administration Fund (Fund), which faces a substantial structural deficit.

2. The BPPE reports total administrative and enforcement costs of approximately $1,002,000 beginning in Fiscal Year (FY) 2027-28 and $954,000 ongoing (Fund) to process additional applications and investigate complaints from both private and public out-of-state institutions. Initial application revenue may offset BPPE's administrative workload to some extent, however costs for any significant increase in registrations and ongoing enforcement workload cannot be supported by BPPE's Fund (see staff comments).

   The bill does not specify that BPPE be designated as the portal entity, but does require all out-of-state postsecondary educational institutions that are not part of an IRA by January 1, 2028 to register with the BPPE. BPPE estimates up to 599 institutions would be required to register with the bureau if IRA requirements are not met; however, it is unknown how many of these institutions would actually meet IRA requirements and become members. BPPE's estimate assumes all 599 institutions would be required to register with the bureau. To the extent this number is lower, BPPE's administrative and enforcement costs will likely decrease accordingly.

3. Unknown costs for the UC, CSU, and CCC to join and enter into memoranda of understandings (MOUs) with the designated portal entity. Total costs would depend on, among other things, how often the body would meet and the level of support staff or other resources required by the UC, CSU, and CCC to support their participation.

4. Unknown total potential cost savings for all participating institutions (University of California (UC), California State University (CSU), California Community Colleges (CCCs), and independent colleges and universities) to participate in an IRA through the portal entity. For example, the UC estimates $1 million in ongoing savings once an IRA is made. The UC currently pays a total of approximately $1.3 million in fees to individual states' postsecondary education programs that it enters into agreements with. Under an IRA, UC notes that it could join the National Council for State Authorization Reciprocity Agreement (NC-SARA), which has a participation fee of $217,000.

COMMENTS:

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

> Tens of thousands of Californians study online through institutions in other states. However, California is the only state not participating in the State Authorization Reciprocity Agreement, which gives students in member states protection, institutional oversight, and rights even when the educational institution is approved in another state. Instead, out-of-state schools must register with California's Bureau of Private Postsecondary Education, where they are subject to limited regulation. Meanwhile, California institutions face major disadvantages. They must apply and pay fees for every

> single online program they offer to out-of-state students. At times, it only takes a few out-of-state students enrolling in a CSU or community college class to help meet class minimums, so excluding out-of-state students can mean that courses are not available for California students. [This bill] requires the Governor to designate a new state entity to oversee postsecondary education policy and authorizes the Governor to join an interstate reciprocity agreement for distance education if the agreement meets specific consumer protection standards. Joining an interstate reciprocity agreement would promote educational access, regulatory efficiency, and economic growth while allowing California to better safeguard its students enrolled online in out-of-state schools.

Background.

State Authorization and State Authorization Reciprocity Agreements. Postsecondary education institutions must be authorized by any state in which they operate and have a student complaint process to be eligible for Title IV federal financial aid. Schools that do not have a physical presence in a state but are enrolling students from that state in their online programs can satisfy the state authorization requirement without obtaining approval from each state if they participate in a state authorization reciprocity agreement. The State Authorization Reciprocity Agreement (SARA), governed by the National Council for State Authorization Reciprocity Agreements (NC-SARA), was developed by a group of institutions, states, and policy organizations in response to concerns about needing authorization in each state where a school wishes to operate.

SARA provides that accredited, degree-granting institutions (public, private, for-profit, and nonprofit schools alike) approved by a SARA member state may offer distance education in other SARA member states without having to individually apply to state authorization. SARA establishes consistent national standards for distance learning and streamlines the process for institutions to offer online courses in multiple states. Proponents of joining SARA argue that participation in SARA reduces the time, complexity, and cost associated with obtaining authorization in individual states. This committee is unaware of the arduousness of the process in each state or the associated costs.

According to NC-SARA, there are more than 2,400 institutions in 49 member states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands participating in SARA. The Western Interstate Commission for Higher Education (WICHE) coordinates the participation of SARA member states in the Western United States through the WICHE State Authorization Reciprocity Agreement (W-SARA). As of June 15, 2025, thirteen states are participating in W-SARA: Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

This bill would authorize the Governor to enter California into an interstate reciprocity agreement for the authorization and oversight of distance education, such as W-SARA, if specified conditions are met. In particular, the Governor would be required to issue written findings that the interstate reciprocity agreement adhere to enumerated principles. The relevant policy committees of the Legislature would be required to convene a joint hearing on the interstate reciprocity agreement after the Governor issues the aforementioned findings.

States must apply to join SARA. If approved, the state becomes a SARA member. Postsecondary institutions located in California may apply to become SARA-participating institutions via their

home state's designated SARA portal entity, which is responsible for reviewing applications, verifying eligibility and compliance with SARA standards, and ultimately approving or denying applications. The portal agency must forward approved applications to NC-SARA. Approved institutions must pay an annual fee to NC-SARA based on total full-time enrollment and renew annually.

This bill would additionally require the Governor to designate a state agency, department, or office to serve as the portal entity. Postsecondary institutions would apply to the portal entity for approval to operate under an interstate reciprocity agreement and pay a fee, established by the portal entity to cover the portal entity's expenses. The portal entity would also be required to enter into memoranda of understanding with the Chancellor of the California State University, the Chancellor of the California Community Colleges, the Association of Independent California Colleges and Universities, the President of the University of California, and, if appropriate, the bureau.

The Bureau for Private Postsecondary Education. The BPPE is responsible for overseeing postsecondary institutions that have a physical presence in California and out-of-state institutions that enroll California students in online distance learning programs. Additionally, the bureau is responsible for enforcing the Act, which prohibits false advertising and inappropriate recruiting and requires disclosure of specific information about the educational programs being offered, graduation and job placement rates, and licensing information. Specifically, the Act directs the BPPE to, in part, review and approve private postsecondary educational institutions; establish minimum operating standards to ensure educational quality; provide an opportunity for student complaints to be resolved; and ensure private postsecondary educational institutions offer accurate information to prospective students about school and student performance. The BPPE also investigates and combats unlicensed activity, conducts research and outreach to students and postsecondary educational institutions, and administers the STRF.

Private and out-of-state nonprofit institutions with a physical presence in California are currently required to seek an approval to operate, which requires compliance with minimum operating standards and numerous other requirements such as an annual report to the BPPE and the publishing of School Performance Fact Sheets that contain specified information. An approval to operate is valid for five years. Out-of-state public institutions with a physical presence in California are not required to, but may, seek approval to operate from the BPPE so that their students are eligible for federal financial aid.[1] Out-of-state for-profit institutions that want to enroll California students for distance learning (online programs) must register with the bureau.

Registration of Out-of-State For-Profit Schools Enrolling California Students for Online Education. Out-of-state private postsecondary institutions without a physical presence in California that offer distance education (i.e., online) to California students must register with the bureau every five years. Public and U.S. Department of Education-accredited nonprofit institutions are exempt. However, under this bill, public and accredited nonprofit schools would only be exempt until January 1, 2028, after which those schools would be required to register

[1] Federal law requires for state authorization entitling students to federal financial aid, to have a process for reviewing and action on complaints concerning the institution. With an approval to operate, the BPPE would provide that service for out-of-state public institutions.

with the bureau or operate in California pursuant to their participation in an interstate reciprocity agreement. According to the Senate Appropriations Committee's analysis of this bill, the bureau estimates that 599 schools would be required to register with the bureau if the state does not enter into a reciprocity agreement, if schools choose not to participate, or if they are not approved to participate in an interstate reciprocity agreement. This bill would charge the bureau with investigating and resolving complaints that may arrive pursuant to an interstate reciprocity agreement involving out-of-state institutions with an approval to operate from the bureau or that are exempt from the bureau's oversight by electing to participate in an interstate reciprocity agreement.

Unlike institutions with an approval to operate, registered institutions are not required to meet minimum operating standards or adhere to other requirements that come with an approval to operate. Although the bureau may approve, deny, or place conditions on a school's registration. Applicants for registration are required to provide the bureau with specified information, including evidence of accreditation, evidence that the school is approved to operate in the state in which it is headquartered, the agent for service of process, a copy of the school's catalog, and a copy of a sample enrollment agreement, if applicable. Additionally, they must report specified disciplinary information, including whether or not the school, or a controlling officer of, or a controlling interest or investor in, the school or in the parent entity of the school, had been subject to any education, consumer protection, unfair business practice, fraud, or related enforcement action, by a state or federal agency in the five years preceding the application. This bill would require schools to disclose investigations resolved via a settlement agreement and provide a copy of the settlement agreement.

Under current law, the bureau, after being notified of relevant disciplinary action, must, within 30 days, request that the school explain in writing why it should be permitted to continue enrolling California residents. Institutions may continue enrolling students if, after reviewing the school's explanation and consulting with the California Attorney General, the bureau issues a written finding that there is no immediate risk to California residents from the school's continued enrollment of new students. The bureau may also limit student enrollment at its discretion. However, according to bureau staff, the requirements for doing so have prevented the bureau from taking action to pause student enrollments. This bill would repeal the existing requirements and instead authorize the bureau, upon notification of disciplinary action, or after determining that such a notification should have been provided, to seek additional information, and notify the school whether the institution much suspend enrolling new students and other actions are needed to protect California students while the bureau investigates the matter. By eliminating some of the existing barriers, these changes may increase the likelihood that the bureau will take action to pause student enrollments.

Deceptive Business Practices. Under current law, schools with an approval to operate from the bureau are prohibited from engaging in specified business practices. For example, a school cannot promise or guarantee employment, falsely advertise that the school is accredited, collect any payment school charges that are not authorized by an enrollment agreement, or require a prospective, current, or former student or employee to sign a nondisclosure agreement, except as specified. This bill would similarly prohibit out-of-state postsecondary institutions that are required to register with the bureau from engaging in deceptive business practices.

Student Tuition Recovery Fund. Students of postsecondary institutions that are registered with the bureau are required to pay into the STRF. The STRF relieves or mitigates economic loss suffered by students due to a school closure or program closure, a school's failure to pay refunds or reimburse loan proceeds, or a school's failure to pay a student's restitution award for a violation of the Act. Students enrolled in institutions that are exempt from or not covered by the Act are not eligible for STRF.

The STRF is financed by assessments paid by students, collected by institutions, and remitted to the BPPE. Under current law, when the STRF balance exceeds $25 million, the BPPE is required to temporarily reduce the assessment rate to $0.00, effectively stopping collection for the STRF. Due to the fund reaching its statutory cap, institutions are currently not required to collect STRF fees from students. Prior to the rate change on April 1, 2024, the assessment rate was $2.50 per $1,000 of institutional charges. For example, a student paying $10,000 in tuition and fees would have paid $25.00 towards the STRF. When the STRF balance drops below $20 million, the STRF assessments will resume.

Current Related Legislation. SB 861 (Senate Business, Professions and Economic Development Committee), as it relates to this bill, prohibits an institution from directing any individual to perform an act that violates the Postsecondary Education Act of 2009 or to refrain from reporting unlawful conduct to the bureau or another governmental agency. *SB 861 is pending in this committee.*

Prior Related Legislation. SB 634 (Block) of 2014 would have, to the extent authorized by federal law, applied the Postsecondary Education Act of 2009 to an accredited private entity with no physical presence in this state that offers and awards degrees to the public in this state by means of distance education for an institutional charge if the entity does not participate in a regional state authorization reciprocity agreement entered into or recognized by the state. *SB 634 was held by the author in the Senate Education Committee.*

SB 81 (Committee on Budget and Fiscal Review), Chapter 22, Statutes of 2015, in part, authorized private, nonprofit colleges and universities to contract with the bureau to review and act on complaints concerning the institution.

SB 1192 (Hill), Chapter 593, Statutes of 2016, in part, created an out-of-state registration system to allow California students in distance education to be eligible for STRF.

AB 1344 (Bauer-Kahan), Chapter 520, Statutes of 2019, required that out-of-state institutions registering with the bureau, either at the time of registration, or within 30 days if currently registered, to notify the bureau if specific actions are taken against the institution; allowed the bureau to suspend the enrollment of new students after consultation with the Attorney General and issuing a written finding that there is no immediate risk to California residents from the institution continuing to enroll new students; and authorized the bureau to take enforcement action against an institution's registration.

AB 1346 (Medina), Chapter 521, Statutes of 2019, in part, expanded the definition of "economic loss" for the purposes of recovery through the STRF to include all amounts paid to the institution and amounts paid in connection with attending 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 1433 (Roth), Chapter 544, Statutes of 2022, in part, allowed an out-of-state public institution of higher education 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.

ARGUMENTS IN SUPPORT:

The *Association of Independent California Colleges and Universities* writes in support:

> California's lack of participation in interstate reciprocity for distance education creates significant burdens and barriers. Currently, if an institution wishes to offer an online academic program in another state, it must submit extensive paperwork, pay thousands of dollars in fees, respond to sometimes lengthy questionnaires and supplemental requests for information. This process must currently be completed for any program an institution wants to offer outside California and must be completed for every state in which they want to offer it. Additionally, if a student enrolled in a program moves from California elsewhere, that institution must then determine whether they are authorized to offer distance education in the student's new state, and if not, they must either choose to go through this process and pay thousands in fees to continue educating that student or disenroll the student.
>
> The implementation of [this bill] will facilitate a more streamlined process for our institutions to offer distance education programs to out-of-state students by participating in interstate reciprocity agreements. This will reduce redundant regulatory burdens, allowing our member institutions to allocate resources more effectively toward enhancing educational quality and student support services.
>
> Moreover, it will simplify the ability of institutions to continue serving students who move outside the state and will broaden educational access to students seeking high-quality programs across the country. By creating a pathway for California to streamline this process, the state can expand the opportunities for California's colleges and universities, public and private nonprofit alike, to compete in the national marketplace and offer their programs to more students. This provides an opportunity to help supplement and increase enrollment at California's institutions of higher education, which will help fuel program and faculty growth.

The *University of California* writes in support:

> In addition to online education, state authorization regulations apply to out-of-state clinical placements for students in health sciences programs. These pose significant hurdles to making out-of-state clinical placements at the seven UC campuses that offer health sciences instruction. Out-of-state clinical placements and externships are a routine and essential part of clinical education. For medical students, participating in clinical rotations outside of California is essential to placement for their residency training, and

expands their understanding of medical treatment and disease management since some institutions are experts in specific fields. The benefits of out-of-state clinical placements apply to other professional health fields as well, including nursing, physical therapy, and public health. Clinical placements and externships are essential to students gaining more knowledge and experience and are routinely undertaken in other states so that the student can gain exposure to different conditions, populations, and issues.

Since all states except California have joined SARA, UC and other California colleges and universities are at an extreme disadvantage in offering online courses, degrees, and clinical placements to residents of other states. States that had previously exempted online educational offerings from California have established more stringent requirements for institutions in states that are not part of SARA. UC has already had to withdraw from clinical placements in some states because California is not a SARA member.

[This bill] would ensure that students have greater access to curriculum and ensure that students who need clinical placements have more choices when it comes to their training. This bill puts California's colleges and universities on an equal playing field with other states and would reduce burdensome staff workloads and costs for our campuses.

ARGUMENTS IN OPPOSITION:

The *California Association of Private Postsecondary Schools (CAPPS)* writes in opposition:

We support California's efforts to join an interstate reciprocity agreement and expand online learning opportunities. However, while [this bill] ostensibly aims to facilitate California's participation in an interstate distance education reciprocity agreement such as the State Authorization Reciprocity Agreements (SARA), the bill imposes costly new regulatory burdens on for-profit institutions that are unjustified and inconsistent with the spirit and standards of the National Council for State Authorization Reciprocity Agreements (NC-SARA). Therefore, this legislation in its current form should be rejected.

CAPPS further cites concerns regarding additional regulation of out-of-state for-profit institutions, disparate treatment of for-profit institutions, implications for California-based institutions, and increases costs and administrative burdens for the portal entity as reasons for opposing the bill and concludes, "While we support efforts to protect students and ensure educational quality, we believe [this bill] imposes unnecessary burdens on for-profit institutions and creates fiscal and operational challenges for California's agencies."

The *University of Phoenix, Inc.* writes in opposition:

[This bill] contains provisions that are unworkable, costly, and inconsistent with its primary intent of California potentially joining an interstate reciprocity agreement for the purposes of its institutions to offer distance education nationally in other states. There is a way forward for California to be in SARA, but it must abandon the discriminatory structure and non-uniform entry and operation standards for institutions that are set forth in this bill.

The *California Federation of Teachers*, *Consumer Federation of California*, and the *Institute for College Access & Success* collectively write in opposition, unless the bill is amended:

> We have serious concerns about SARA's current lack of sufficient consumer protections, its coordinating entity's (NC-SARA) ongoing refusal to build out stronger protections, the broad exemption of critical California laws that currently protect students from fraud and abuse for schools that participate in SARA, and the student populations who would be targeted by aggressively marketed online programs entering California and whether those students will be siphoned away from safer traditional public institutions.
>
> From 2021-2023, twenty-two state Attorneys General have sounded the alarm about SARA's limitations, especially regarding states' abilities to enforce their own higher education-specific consumer protection laws. Furthermore, the State of Washington is actively exploring alternatives to SARA that provide stronger safeguards for students via House Bill 1279—clearly signaling that California should not consider SARA a turnkey solution without first ensuring it retains the power to enforce critical protections.
>
> [...]
>
> California students enrolling in online programs offered by out-of-state SARA institutions may not be protected by the state's robust consumer laws that apply to in-state, brick-and-mortar schools. These institutions are only required to meet SARA's minimal standards, which fall far short of California's protections. While a school's home state may have stronger regulations, it is unclear whether those standards are extended to students in other states. California has long declined to join SARA for these reasons. Joining would hinder the state's ability to safeguard its students.

POLICY ISSUES:

Enforceability if California's Higher Education Consumer Protection Laws. In 2021, the Attorneys General of 25 states co-authored a letter to NC-SARA advocating for SARA policy changes to improve student protections, asserting that "NC-SARA's current policies do not contain sufficient consumer protections to assure that students are well served, undermine states' ability to protect their residents, and create the race to the bottom that NC-SARA seeks to prevent." California is the only state that has not joined SARA, due mainly to the fact that California would not be able to enforce student protections specific to the Act. While SARA does not prevent states from enforcing consumer protection, fraud, and unfair business practice laws that apply to all businesses, SARA does limit member states' ability to enforce state laws or regulations that are specific to higher education. For example, California cannot impose its own higher education laws and regulations on an out-of-state school that enrolls California students, but it can sue the school under California's general consumer protection laws. Moreover, the home state of an institution is responsible for regulating and overseeing the school's compliance with SARA policies. Institutions that participate in SARA are approved for participation by their home state, and states that join SARA must accept that approval, regardless of the effectiveness of the home state's oversight.

Financial Relief for Harmed Students. While the SARA Policy Manual requires member states to have laws, regulations, policies, and/or processes in place to deal with the unanticipated closure of an institution and to make every reasonable effort to assure that students receive the services for which they have paid or reasonable financial compensation for those not received, it is unclear to what extent these requirements are enforced, if at all, or whether adequate resources are available.

Verification of Nonprofit Status by the Attorney General. In response to several for-profit colleges transitioning to nonprofit status, AB 70 (Berman), Chapter 153, Statutes of 2020, sought to prevent covert for-profit colleges from using devious financial maneuvers to claim nonprofit status and evade state oversight by prohibiting the bureau from verifying an exemption for a nonprofit that previously operated as a for-profit institution unless the Attorney General verified the institution's nonprofit status. This bill does not require verification of the nonprofit status of any nonprofit institution operating in California that is part of an interstate reciprocity agreement.

IMPLEMENTATION ISSUES:

Cost and Workload Implications for the Bureau. Under this bill, as of January 1, 2028, out-of-state public and nonprofit institutions that are currently exempt from the requirement to register with the bureau will only continue to be exempt if they are approved to operate in California pursuant to an interstate reciprocity agreement. It would significantly increase the bureau's workload if an additional 599 public and nonprofit institutions were required to register with the bureau. Out-of-state schools registering with the bureau are only required to pay a $1,500 registration fee (every five years), which covers the bureau's processing of that application, but does not cover enforcement-related expenses. As noted in this committee's analysis of AB 3167 (Chen), which sought to establish a nearly identical registration process for certain nonprofit schools, "Bureau staff report that while it has the ability to deny or place conditions on a registration, the cost of an appeal is so burdensome that the bureau has yet to do so. Moreover, fear of costly litigation that the bureau cannot afford has also placed the bureau in a difficult position to decide between allowing registered institutions to commit minor infractions without consequence and taking more severe measures (e.g., revocation of registration) at the risk of them being overturned through costly litigation."

Effective Date of Exemption Changes. As noted above, under this bill, out-of-state public and nonprofit institutions that are currently exempt from the requirement to register with the bureau will be required to register with the bureau beginning January 1, 2028. After January 1, 2028, those institutions would only be exempt from the registration requirement if approved to operate in California pursuant to an interstate reciprocity agreement. The implementation of the exemptions for public and nonprofit institutions is based on an arbitrary date, but should be contingent upon California entering SARA or another interstate reciprocity agreement.

Purpose of Legislative Hearing. It is unclear what the purpose of the joint hearing is, as there does not appear to be any requirement that the Governor incorporate feedback into the findings or that legislative approval of the findings is necessary before the Governor enters an interstate reciprocity agreement. Similarly, there is currently no requirement that the Governor incorporate public feedback into their findings.

AMENDMENTS:

The author has agreed to amendments that do all of the following:

1) For clarity,

   a) Revise the definition of "commission," as follows:

      "Commission" means the Western Interstate Commission for Higher Education, including the Western State Authorization Reciprocity Agreement steering committee ~~of the commission~~, or another group of states or United States territories organized in an interstate reciprocity agreement.

   b) Specify that the Governor has until January 1, 2028, to enter into one or more interstate reciprocity agreements and make the exemption from bureau registration for out-of-state public and nonprofit institutions effective upon the state entering an interstate reciprocity agreement, rather than January 1, 2028.

   c) Add a cross-reference to EDC § 66922(c)(2) to specify that the memorandum of understanding between the bureau and the portal entity is pursuant to EDC § 66922(a)(1).

3) Authorize the state to require an out-of-state postsecondary institution to register with the bureau with three months' notice instead of six.

4) Strike the following provision due to a lack of specificity regarding which standards and protections are being referenced:

   EDC 66920(a)(5):

   ~~(5) The commission and national coordinating council are committed to preserving standards and protections that have been promulgated by the federal government and are the basis of the interstate reciprocity agreement, even if those standards or protections are subsequently diminished or withdrawn by federal law or action of the United States Department of Education, and the commission is committed to developing meaningful performance metrics and frameworks for best practices with regard to individual state authorization activities.~~

5) In recognition that there are numerous kinds of institutions identified in EDC § 94874 that are exempt from the bureau's oversight that would not be eligible to participate in SARA, clarify that exempt institutions meet the requirements of EDC § 94801.5(c) (i.e., they are public or accredited nonprofit, as specified, or a non-degree granting program that costs less than $2,500).

6) In recognition that the Governor could enter into an interstate reciprocity agreement that is not W-SARA:

   a) Strike "by the commission" from the provision allowing the interstate reciprocity agreement to be modified with the approval of the Governor.

The interstate reciprocity agreement may be modified ~~by the commission~~ only with the approval of the Governor.

b) Clarify that the portal entity shall work cooperatively with other states in the interstate reciprocity agreement and the commission, *or the governing body of an alternative interstate reciprocity agreement*, to enable the success of the interstate reciprocity agreement (emphasis added to distinguish between existing bill language and amended language).

7) Specify that the public must have 30 days to provide written comment on the Governor's findings.

8) Authorize the bureau to seek additional information and notify an institution regarding whether the institution must suspend enrolling students, and whether other actions are needed to protect California residents, in response to a complaint received by bureau.

REGISTERED SUPPORT:

American Jewish University
Association of Independent California Colleges & Universities
Azusa Pacific University
Biola University
California Association of Christian Colleges and Universities
California Baptist University
California College of the Arts
California Indian Nations College
California State University, Office of the Chancellor
Claremont Lincoln University
Concordia University Irvine
Dominican University of California
EDvance College
Golden Gate University
Jessup University
John Paul the Great Catholic University
Keck Graduate Institute
Life Pacific University
Loma Linda University Health
Los Angeles Pacific University
Loyola Marymount University
Minerva University
National University
Notre Dame De Namur University
Otis College of Art and Design
Palo Alto University
Pepperdine University
Point Loma Nazarene University
Reach University
Saint Mary's College of California

Samuel Merritt University
Santa Clara University
Saybrook University
Southern California University of Health Sciences
Stanford University
The Chicago School
University of Antioch
University of California
University of La Verne
University of Massachusetts Global
University of Redlands
University of San Diego
University of San Francisco
University of Southern California
University of the Pacific
Vanguard University of Southern California
Western University of Health Sciences
Westmont College

REGISTERED OPPOSITION:

California Association of Private Postsecondary Schools
California Federation of Teachers (unless amended)
Consumer Federation of California (unless amended)
The Institute for College Access & Success (unless amended)
University of Phoenix, INC.

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

Date of Hearing: July 8, 2025

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
SB 861 (Committee on Business, Professions and Economic Development) – As Amended June 30, 2025

SENATE VOTE: 36-0

SUBJECT: Consumer affairs

SUMMARY: Makes numerous technical and clarifying changes to provisions of existing law relating to various licensing programs under the Department of Consumer Affairs (DCA) and the Department of Cannabis Control (DCC).

EXISTING LAW:

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

2) Enumerates various boards, bureaus, committees, commissions, and programs within the DCA's jurisdiction. (BPC § 101)

3) Provides that each board within the DCA exists as a separate unit, and has the functions of setting standards, holding meetings, conducting examinations, reviewing applications, conducting investigations of violations of laws under its jurisdiction, issuing citations and holding hearings for the revocation of licenses, and the imposing of penalties following those hearings, insofar as those powers are given by statute to each respective board. (BPC § 108)

4) Provides the Department of Food and Agriculture (CDFA) with responsibility for supervising the weights and measures and weighing and measuring devices sold or used in the state. (BPC §§ 12001 *et seq.*)

5) 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 cannabis. (BPC §§ 26000 *et seq.*)

6) Establishes the DCC within the Business, Consumer Services, and Housing Agency for purposes of administering and enforcing MAUCRSA. (BPC § 26010)

THIS BILL:

1) Updates various outdated references to boards or bureaus within the DCA that have been renamed since those statutes were enacted and

2) Adds corresponding references to recently established license categories.

3) Makes conforming changes to statutes relating to the composition of board memberships that were recently restructured.

4) Corrects erroneous cross-references and typographical errors.

5) Repeals unnecessary language referring to previous statutory deadlines.

6) Eliminates the use of gendered pronouns.

7) Makes various additional technical and noncontroversial changes recommended to enhance or clarify existing law providing for the licensing and oversight of various professions and entities.

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

COMMENTS:

Purpose. This bill is the annual "committee bill" authored by the Senate Committee on Business, Professions, and Economic Development, which is intended to consolidate a number of noncontroversial provisions related to various regulatory programs and professions governed by the Business and Professions Code. 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.

Department of Consumer Affairs. The DCA consists of 36 distinct regulatory entities, including 26 boards, seven bureaus, one committee, one commission, and one program. In total, the DCA oversees more than 3.4 million licensees across 280 license types falling within the respective jurisdiction of each board, bureau, or other licensing entity. These license types range from physicians licensed by the Medical Board of California to hairstylists licensed by the California Board of Barbering and Cosmetology.

This bill makes various changes to acts administered and enforced by boards and bureaus under the DCA. For example, this bill would update references to entities that have recently been renamed, conform various laws to recognize membership composition changes to boards, and make additional technical changes to clarify or streamline existing law. Many of these changes were recommended by the DCA or a specific program within the DCA. Additional changes to the Education Code relate to the licensing program administered by the Bureau for Private Postsecondary Education within the DCA.

Department of Food and Agriculture. The CDFA oversees the Division of Measurement Standards, which is responsible for ensuring equity in the marketplace through the regulation and enforcement of weights and measures standards, which includes overseeing the accuracy of commercial weighing and measuring devices. The CDFA works in coordination with county sealers of weights and measures to conduct inspections, testing, and certification of these devices. Various provisions of law reference the National Conference on Weights and Measures. However, in July 2024, this entity voted to change its name to the National Council on Weights and Measures. This bill would correspondingly update references in current law to reflect this organization's name change.

Department of Cannabis Control. The Medical Cannabis Regulation and Safety Act (MCRSA), first enacted in 2015, established a comprehensive statewide licensing and regulatory framework for the cultivation, manufacture, transportation, testing, distribution, and sale of medicinal cannabis to be administered by a newly established Bureau of Cannabis Control within the DCA; the California Department of Public Health (CDPH); and the CDFA, with implementation relying on each agency's area of expertise. Not long after the Legislature enacted MCRSA, California voters passed Proposition 64, the Adult Use of Marijuana Act (AUMA), which made use of the regulatory framework and authorities set out by MCRSA. The two systems were subsequently reconciled in 2017 through MAUCRSA.

In January 2019, the state's three cannabis licensing authorities announced the approval of the state's final cannabis regulations promulgated by the three agencies respectively. In early 2021, the Department of Finance released trailer bill language to create the DCC, 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 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.

This bill contains several technical and noncontroversial changes to MAUCRSA and provisions relating to the DCC. Specifically, this bill would update cross-references in statutes providing for license application requirements, clarify that track-and-trace is an *electronic system* rather than a *database*, and make other minor changes. None of the changes proposed by this bill are controversial or meaningfully substantive.

Prior Related Legislation. ACR 260 (Low), Res. Chapter 190, Statutes of 2018 encouraged the Legislature to engage in a coordinated effort to revise existing statutes and introduce new legislation with inclusive language by using gender-neutral pronouns or reusing nouns to avoid the use of gendered pronouns.

ARGUMENTS IN SUPPORT:

The *Dental Hygiene Board of California* (DHBC) supports this bill, writing that "the bill would make technical changes to the provisions regulating dental hygienists by, among other things, correcting references to the DHBC and deleting an obsolete provision affecting the expiration of terms for members of the former Dental Hygiene Committee of California. The Board thanks you for this legislation to continue to allow the DHBC to conduct business as intended by its formation."

ARGUMENTS IN OPPOSITION:

There is no opposition on file.

REGISTERED SUPPORT:

California Lawyers Association
Court Reporters Board
Dental Hygiene Board of California

REGISTERED OPPOSITION:

None on file

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