California State Assembly

BUSINESS AND PROFESSIONS

MARC BERMAN
CHAIR

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AGENDA

Tuesday, March 28, 2023
9:30 a.m. -- 1021 O Street, Room 1100

BILLS HEARD IN FILE ORDER

1.	AB 38	Lee	Light pollution control.
2.	AB 225*	Grayson	Real property: environmental hazards booklet.
3.	AB 232*	Aguiar-Curry	Temporary practice allowances.
4.	AB 282*	Aguiar-Curry	Psychologists: licensure.
5.	AB 342	Valencia	Architects and real estate appraisers: applicants and licensees: demographic information.
6.	AB 470*	Valencia	Continuing medical education: physicians and surgeons.
7.	AB 471	Kalra	Cannabis catering.
8.	AB 633*	Jim Patterson	Nursing: licensure: renewal fees: reduced fee.
9.	AB 783	Ting	Business licenses: single-user restrooms.
10.	AB 826*	Chen	Podiatric medicine: continuing education.
11.	AB 834	Irwin	Physicians and surgeons and doctors of podiatric medicine: professional partnerships.
12.	AB 878*	Pellerin	Business filings: fictitious business names.
13.	AB 883*	Mathis	Business licenses: United States Department of Defense SkillBridge program.
14.	AB 993	Blanca Rubio	Cannabis Task Force.
15.	AB 1136	Haney	State Athletic Commission: mixed martial arts: pension fund.
16.	AB 1341*	Berman	Public health: COVID-19: testing and dispensing sites: oral therapeutics.
17.	AB 1395	Garcia	Licensed Physicians and Dentists from Mexico Pilot Program: requirements.(Urgency)

** Consent*

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 38 (Lee) – As Introduced December 5, 2022

SUBJECT: Light pollution control.

SUMMARY: Requires state agencies to ensure that an outdoor lighting fixture that is installed or replaced, on or after January 1, 2024, on a structure or land that is owned, leased, or managed by the state agency is shielded and adheres to additional lighting requirements.

EXISTING LAW:

1) Establishes the California Building Standards Commission (CBSC) within the Department of General Services and requires any building standards adopted or proposed by state agencies to be submitted to, and approved by, the CBSC prior to codification into the California Building Standards Code. (Health and Safety Code §§ 18901 *et seq*.)

2) Requires the State Energy Resources Conservation and Development Commission to adopt, among other regulations, lighting and other building design and construction standards that increase efficiency in the use of energy for new residential and nonresidential buildings to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy, including energy associated with the use of water, and to manage energy loads to help maintain electrical grid reliability. (Public Resources Code §§ 25000 *et seq.*)

THIS BILL:

1) Defines “correlated color temperature” to mean the temperature, measured in Kelvin, of a radiating black body that presents the same apparent color to the human eye as the light source.

2) Defines “Department” to mean the Department of General Services.

3) Defines “light trespass” to mean light emitted by an outdoor lighting fixture that shines beyond the boundary of the property on which the fixture is located.

4) Defines “outdoor lighting fixture” to mean an outdoor artificial illuminating device or luminaire, whether permanent or portable, including, but not limited to, artificial illuminating devices installed on a building or structure and used for illumination or advertisement, including, but not limited to, searchlights, spotlights, and floodlights, used for architectural lighting, parking lot lighting, landscape lighting, billboards, or street lighting.

5) Specifies that “outdoor lighting fixture” does not include artificial illuminating devices that are worn or held in the hand, including flashlights, lanterns, and headlamps.

6) Defines “shielded” to mean that all of the light rays emitted by an outdoor lighting fixture in its installed position, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted and effectively obscures visibility of the lamp.

7) Defines “state agency” to include every state office, officer, department, division, bureau, board, and commission; and to exclude the California State University.

8) Requires state agencies to ensure that an outdoor lighting fixture that is installed or replaced on or after January 1, 2024, on a structure or land that is owned, leased, or managed by the state agency is shielded and meets all of the following criteria:

   a) Uses a lamp with a correlated color temperature that does not exceed 2700 Kelvin.

   b) Uses the minimal illuminance required for the intended purpose of the outdoor lighting fixture, with consideration to recognized building and safety standards, including, but not limited to, recommended practices adopted by the Illuminating Engineering Society.

   c) Is one or more of the following:

      i) Dimmable to no more than 50% of its maximum possible brightness and dimmed between the hours of 11 p.m. and sunrise, unless a compelling safety or other state interest requires the fixture to be at full illumination.

      ii) Extinguishable by an automatic or manual shutoff device.

      iii) Motion-activated with an activated duration of fewer than 15 minutes and equipped with an automatic shutoff device.

   d) Requires a state agency to consider cost efficiency, energy conservation, minimization of light trespass and glare, and preservation of the natural night environment.

9) Specifies that the requirements above do not apply in any of the following circumstances:

   a) A federal law or regulation that preempts state law.

   b) A local municipal or county ordinance that establishes requirements that more stringently control light trespass or glare or conserve the natural night sky.

   c) The outdoor lighting fixtures are advertisement signs or other fixtures on interstate highways or federal primary highways.

   d) A compelling safety interest or existing legal requirement requires such lighting, including any of the following:

      i) Navigational lighting for aircraft safety.

      ii) Outdoor lighting needed for the safe navigation of watercraft, including, but not limited to, lighthouses and outdoor lighting in marinas.

      iii) Outdoor lighting fixtures necessary for worker health and safety or public health and safety, pursuant to the regulations promulgated by the Department of Industrial Relations, the Agricultural Labor Relations Board, and the Public Employment Relations Board.

iv) Lighting that is used by law enforcement officers, firefighters, medical personnel, or correctional personnel, including, but not limited to, lighting used at Department of Corrections and Rehabilitation facilities and Department of State Hospitals facilities.

v) Lighting intended for tunnels and roadway underpasses.

vi) Outdoor lighting used for programs, projects, or improvements of a state agency related to construction, reconstruction, improvement, or maintenance of a street, highway, or state building, structure, or facility.

vii) Outdoor lighting on historic sites or structures, to the extent necessary to preserve the historic appearance.

viii) Lighting sources of less than 1,000 lumens, including but not limited to, seasonal and decorative lighting.

ix) Other circumstances where a significant interest exists to protect safety or state property that cannot be feasibly addressed by another method, including, but not limited to, lighting needed to discourage vandalism of state agency buildings, structures, and facilities.

10) Specifies that if an exemption applies, a state agency shall make reasonable efforts to install fixtures and employ light management practices that conserve energy, minimize light trespass, and preserve the dark sky while still fully meeting the purposes and requirements of the light fixtures.

11) Makes numerous legislative findings and declarations.

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

COMMENTS:

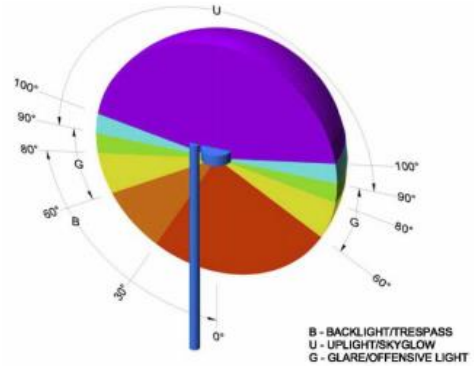
Purpose. This bill is sponsored by *Audubon California* and the *Santa Clara Valley Audubon Society*. According to the author:

> Increased light pollution throughout California and globally is disrupting the circadian rhythms and migratory patterns of animals, which is harming our ecosystems. According to the National Audubon Society, 80% of birds that migrate do so at night using the dark skies to help them navigate to and from their breeding grounds.
>
> In addition to disrupting circadian rhythms, excessive artificial light at night (ALAN) can also disorient birds, which can result in fatal collisions. To address this issue, [this bill] will require outdoor lighting fixtures on state buildings and structures to have an external shield to direct light to where it is needed or be equipped with a shutoff device. This sensible reform promotes safety for migratory birds, ecosystems, and people.

Background.

Light pollution. Light pollution, which has been found to have adverse effects on human health and wildlife, is caused by increasingly large urban areas and the excessive and inefficient use of artificial light.[1] Light pollution is characterized by skyglow (brighter sky in urban areas), light trespass (shining of lights in unneeded or unwanted areas), and glare (brightness resulting in visual discomfort).

Figure 1: Backlight, Uplight, and Glare



Source: California Energy Commission

Light pollution was first recognized as a problem by astronomers in the 1970s upon discovery that thousands of stars and other objects in space could not be seen as clearly despite the use of powerful equipment. In suburbs and cities where a few thousand stars should be visible at night, only a few hundred or a few dozen, respectively, can be seen.

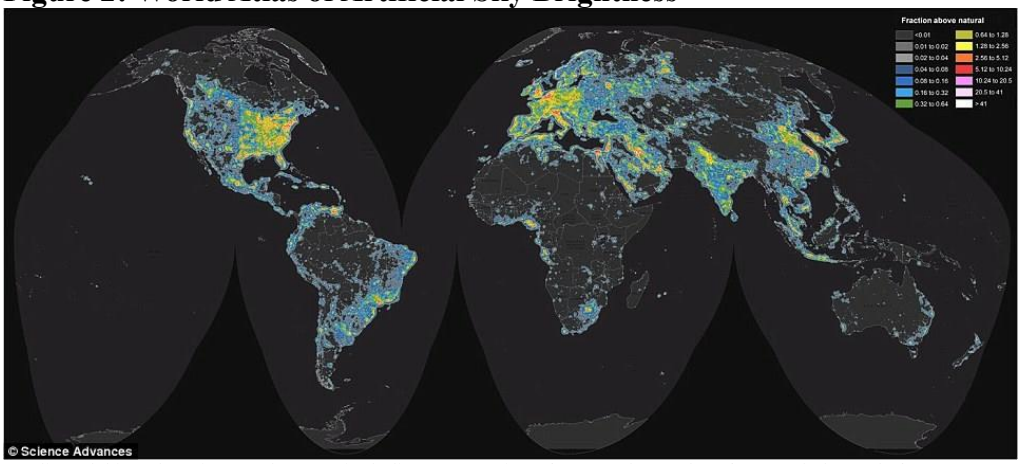
In addition to obscuring stars, light pollution can directly impact human health by interfering with natural circadian rhythms caused by a decrease in the amount of melatonin produced in the body. Sleep disorders, depression, cancer, and other adverse health conditions have been linked to circadian disruption.

Similarly, wildlife are also subject to adverse impacts of light pollution. Studies have demonstrated that light pollution can alter the behavior of wildlife, often resulting in the death or decline of species such as turtles, birds, fish, reptiles, and other wildlife.

Light pollution has also been known to impact the ability for the military to conduct nighttime trainings, which is done to simulate combat situations. In 2007, Texas, at the request of the military, began to regulate the use of outdoor lighting in counties with several military bases and more than one million residents.

[1] Schultz, J. (2022, March 25). *States Shut Out Light Pollution*. National Conference of State Legislatures. Retrieved March 16, 2023, from https://www.ncsl.org/environment-and-natural-resources/states-shut-out-light-pollution

Figure 2: World Atlas of Artificial Sky Brightness



Credit: Falchi et al., Science Advances, including Dan Duriscoe/NPS; Bob Meadows/NPS; Jakob Grothe/NPS contractor, and Matthew Price/CIRES and CU-Boulder

California Green Building Standards Code (CALGreen). In 2007, the CBSC developed green building standards to help the state achieve its greenhouse gas reduction goals.[2] CALGreen is the first-in-the-nation mandated green building standards code and includes regulations for energy efficiency, water efficiency and conservation, material conservation and resource efficiency, and environmental quality. CBSC is authorized to propose CALGreen standards for non-residential structures and any others that are not under the jurisdiction of another state agency. CALGreen Section 5.106.8 currently imposes specific light pollution reduction standards for non-residential buildings. Outdoor lighting systems must be designed and installed to prevent light escaping in unwanted or unnecessary directions from an outdoor light fixture. Specifically the light produced may not exceed the allowable backlight (light directed behind the fixture), uplight (light directed above the horizontal plane of the fixture), and glare (light emitted at high angles that cause a glare) (BUG) ratings per lighting zone. Lighting zones range from natural environments with extremely limited outdoor lighting to urban areas with extensive use of outdoor lighting. CALGreen specifies that if a local ordinance is more stringent than the CALGreen requirements, the building owner must comply with the local ordinance. CalGreen currently exempts a variety of light fixtures, including but not limited to those used for aviation; landscaping; temporary use outdoors; sports and athletic fields; children's playgrounds; tunnels and bridges; stairs and ramps; and lighting for industrial sites. CALGreen also exempts emergency lighting; building façade that meet specified requirements; and some custom lighting features.

Other states. Nineteen states, the District of Columbia, and Puerto Rico have enacted laws to reduce light pollution.[3] "Dark skies" laws typically require outdoor lighting fixtures to be shielded so that light is emitted downwards only, to use low-glare or low-wattage lightbulbs, or to be restricted during certain hours.

Governor's Veto: In 2021, Governor Gavin Newsom vetoed a bill substantially similar to this one, AB 2382 (Lee), stating in part the following:

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[2] Building Standards Commission. (n.d.). *CalGreen*. California Department of General Services. Retrieved March 17, 2023, from https://www.dgs.ca.gov/BSC/CALGreen
[3] Ibid.

> While I appreciate the stated goals of this bill to conserve energy and decrease ambient light in the night sky, the provisions create an overly broad mandate that raises concerns for health and safety, security, and crime prevention. Further, the California Green Building Standards Code includes light pollution reduction standards for nonresidential buildings. These standards are developed during a public, deliberative process.
>
> Furthermore, the costs associated with this bill are unfunded and potentially significant. There are 24,000 state-owned buildings, in addition to the state's leased and managed properties. Requiring all outdoor lighting at these locations to be shielded, include shutoff devices, or have a motion sensor may cost millions of dollars not accounted for in the budget.
>
> With our state facing lower-than-expected revenues over the first few months of this fiscal year, it is important to remain disciplined when it comes to spending, particularly spending that is ongoing. We must prioritize existing obligations and priorities, including education, health care, public safety and safety-net programs. The Legislature sent measures with potential costs of well over $20 billion in one-time spending commitments and more than $10 billion in ongoing commitments not accounted for in the state budget. Bills with significant fiscal impact, such as this measure, should be considered and accounted for as part of the annual budget process.

This bill is a second attempt to enact legislation requiring state agencies to reduce light pollution stemming from structures or land that they own, lease, or manage.

Prior Related Legislation.

AB 2382 (Lee) of 2022 was substantially similar to this bill. *Vetoed.*

ARGUMENTS IN SUPPORT:

According to *Natural Resources Defense Council*, this bill will “provide safety for people, ecosystems, and other wildlife;” “conserve energy and reduce our state’s carbon footprint;” and “help the state save money and help us meet our climate goals.”

According to the *California Institute for Biodiversity*,

> The science is clear: Artificial Light at Night (ALAN) has increased to unprecedented levels globally. This has resulted in a disruption to circadian rhythms in plants and animals, which harm our ecosystems and sensitive biodiversity.
>
> The tremendous impacts on insects are most widely known, and contribute to the catastrophic decline in pollinators and insects known as the “Insect Apocalypse.” However, impacts are widespread. For example, light attracts nocturnal-migratory birds and diverts them from safe migration routes to human environments, where they are more susceptible to collisions with buildings and other human-made structures. A study found that reducing indoor artificial night light by half can result in roughly 60% fewer bird collisions.
>
> Excessive artificial lighting also has detrimental effects on humans. These multifold impacts are unnecessary and result from widespread and unnecessary waste. It is

estimated that at least 30% of all outdoor lighting in the United States alone is wasted – primarily by lights that aren't covered. That wasted light totals $3.3 billion in lost electricity costs and the release of 21 million tons of carbon dioxide per year. It is time to reverse this trend and protect our night sky and biosphere.

ARGUMENTS IN OPPOSITION:

None on file.

POLICY ISSUE(S) FOR CONSIDERATION:

Breadth and stringency of this bill. In 2022, this committee passed AB 2832 (Lee), which, at the time, required state agencies to ensure that outdoor lighting fixtures affixed to *buildings* or *structures* that are owned, leased, or managed by a state agency are *either* shielded, turned off manually or automatically, or motion activated between 11 p.m. and sunrise. Although the author subsequently amended that bill to limit its application to *newly installed* and *replaced* outdoor lighting fixtures, which this bill reflects, this bill applies to any structure or *land* that is owned, leased, or managed by a state agency. Consequently, this bill may affect lighting in state parks, including camp grounds. If this bill passes this committee, the author may wish to amend this bill to limit its applicability to structures only.

Additionally, this bill is more stringent than last year's bill in that it requires newly installed or replaced outdoor lighting fixtures to be both shielded *and* dimmable, turned off automatically, or motion-activated. Additionally each outdoor lighting fixture must not exceed 2700 Kelvin and use the least amount of light required for its intended purpose. Some outdoor lighting fixtures may not be compatible with a shield. Given that certain outdoor lighting fixtures may not be compatible with a shield, if this bill passes this committee, the author may wish to amend this bill to give state agencies more flexibility to select the most feasible option to reduce light pollution.

IMPLEMENTATION ISSUES:

Compatibility with CALGreen. This bill requires outdoor lighting fixtures that are installed or replaced to use a lamp with a correlated color temperature that does not exceed 2700 Kelvin, thereby regulating the *color* of the light produced. In contrast, existing CALGreen light pollution standards regulate the *brightness* of light produced by an outdoor lighting fixture. If this bill passes this committee, the author may wish to remove the requirement that lamps with a correlated color temperature not exceed 2700 Kelvin.

Although CALGreen's light pollution standards currently only apply to new, nonresidential construction that is not under the jurisdiction of another state agency (e.g., schools and state hospitals), their requirements and application can be revised during an intervening (every 18 months) or triennial (every three years) building code cycle. If this bill passes this committee, the author may wish to consider working within the existing framework of CALGreen's regulations to avoid the possibility of conflicting requirements for state agencies.

Exemptions. This bill currently exempts from its requirements "other circumstances where a *significant* interest exists to protect safety or state property than cannot be feasibly addressed by another method, including, but not limited to, lighting needed to discourage vandalism of state agency building, structures, and facilities" *(emphasis added).* The term "significant" may be

interpreted differently by state building managers, thereby resulting in inconsistent application of the bill. If this bill passes this committee, the author may wish to amend the bill to delete the qualifier, "significant."

Bill structure. This bill currently lists a number of specified exemptions that are included because of "a compelling safety interest or existing legal requirement." However, some of the exemptions listed (e.g., outdoor lighting to preserve the appearance of historic buildings and holiday lights) are not intended to protect safety or necessary to comply with an existing legal requirement. If this bill passes this committee, the author may wish to consider removing the broad and ambiguous description of the nature of the exemptions listed in this bill.

Lessee/Lessor Arrangements. This bill would apply to any outdoor lighting fixture that is installed or replaced on a building or structure that is owned, *leased*, or managed by the state agency. As a lessee, a state agency may not have the authority to make changes to lighting fixtures affixed to privately owned buildings or structures. If this bill passes this committee, the author may wish to consider exempting outdoor lighting fixtures affixed to privately owned structures or land that are leased by state agencies.

In contrast, this bill would also apply to buildings and properties that are owned by a state agency and leased to non-state agency. If this bill passes this committee, the author may wish to consider the bill's potential impact on buildings and structures that are subject to public-private partnerships.

Availability of Outdoor Lighting Fixtures and Accessory Components. This bill does not include an exemption for state agencies in the event that no compliant outdoor lighting fixtures or required accessory components (i.e. shield) are available. If this bill passes this committee, the author may wish to include an exemption that addresses this circumstance.

Enforcement. While this bill directs state agencies to adhere to specified outdoor lighting requirements, there is no mechanism for enforcement.

Definitions. This bill defines "department" but makes no reference to the department elsewhere in the bill.

Drafting error. This bill erroneously includes the word "preservation" twice in the same sentence.

AMENDMENTS:

1) Because this bill makes no reference to "department" other than to define it as the Department of General Services, this bill should be amended as follows:

   11901. For purposes of this chapter, all of the following definitions apply:

   (a) "Correlated color temperature" means the temperature, measured in Kelvin, of a radiating black body that presents the same apparent color to the human eye as the light source.

   ~~(b) "Department" means the Department of General Services.~~

~~(c)~~(b) "Light trespass" means light emitted by an outdoor lighting fixture that shines beyond the boundary of the property on which the fixture is located.

~~(d)~~(c) "Outdoor lighting fixture" means an outdoor artificial illuminating device or luminaire, whether permanent or portable, including, but not limited to, artificial illuminating devices installed on a building or structure and used for illumination or advertisement, including, but not limited to, searchlights, spotlights, and floodlights, used for architectural lighting, parking lot lighting, landscape lighting, billboards, or street lighting. "Outdoor lighting fixture" does not include artificial illuminating devices that are worn or held in the hand, including flashlights, lanterns, and headlamps.

~~(e)~~(d) "Shielded" means all of the light rays emitted by an outdoor lighting fixture in its installed position, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted and effectively obscures visibility of the lamp.

~~(f)~~(e) "State agency" means a state agency as defined in Section 11000.

2) To correct a drafting error, this bill should be amended as follows:

11902. (a) Except as specified in Section 11903, a state agency shall ensure that an outdoor lighting fixture that is installed or replaced on or after January 1, 2024, on a structure or land that is owned, leased, or managed by the state agency is shielded and meets all of the following criteria:

(1) Uses a lamp with a correlated color temperature that does not exceed 2,700 Kelvin.

(2) Uses the minimal illuminance required for the intended purpose of the outdoor lighting fixture, with consideration to recognized building and safety standards, including, but not limited to, recommended practices adopted by the Illuminating Engineering Society.

(3) Is one or more of the following:

(A) Dimmable to no more than 50 percent of its maximum possible brightness and dimmed between the hours of 11 p.m. and sunrise, unless a compelling safety or other state interest requires the fixture to be at full illumination.

(B) Extinguishable by an automatic or manual shutoff device.

(C) Motion-activated with an activated duration of fewer than 15 minutes and equipped with an automatic shutoff device.

(b) In complying with this section, a state agency shall consider cost efficiency, energy conservation, minimization of light trespass and glare, and preservation of the natural night environment ~~preservation~~.

REGISTERED SUPPORT:

Active San Gabriel Valley

Audubon California *(co-sponsor)*
California Institute for Biodiversity
California Waterfowl Association
Chemical and Toxics Safety
Defenders of Wildlife
District
FACTS Families Advocating for
Green Foothills
Greenbelt Alliance
Midpeninsula Regional Open Space
Mono Lake Committee
Planning and Conservation League
Santa Clara Valley Audubon Society *(co-sponsor)*
Breast Cancer Prevention Partners
California Institute for Biodiversity
Natural Resources Defense Council
Santa Clara Valley Open Space Authority
Sierra Nevada Alliance
Trust for Public Land

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 225 (Grayson) – As Introduced January 11, 2023

SUBJECT: Real property: Residential Environmental Hazards Booklet

SUMMARY: Encourages the next update of the existing Residential Environmental Hazard Booklet to include three new chapters relating to wildfire, climate change, and sea level rise.

EXISTING LAW:

1) Authorizes the Real Estate Commissioner (commissioner) of the Department of Real Estate (DRE) to prepare the Residential Environmental Hazards Disclosure Booklet (booklet) to educate and inform consumers on common environmental hazards that are located on, and affect, real property. (Business and Professions Code (BPC) § 10084)

2) Allows the costs of preparation and distribution of the booklet to be paid from the Real Estate Fund for education and research. (BPC § 10084)

3) Permits the commissioner to produce and make available copies of the booklet upon request of sellers, buyers, and real estate licensees for a fee that is equal to the cost of preparation and distribution; requires the collected fees to be paid into the education and research account of the Real Estate Fund. (BPC § 10084)

4) Directs the DRE to appropriate funds from the Education and Research Account in the Real Estate Fund for the development of the Residential Environmental Hazards Disclosure Booklet to educate and inform consumers on the following:

   (1) Common environmental hazards that are located on, and affect, real property. The types of common environmental hazards shall include, but not be limited to the following: asbestos, radon gas, lead-based paint, formaldehyde, fuel and chemical storage tanks, and water and soil contamination.

   (2) The significance of common environmental hazards and what can be done to mitigate these hazards.

   (3) What sources can provide more information on common environmental hazards for the consumer.

   (BPC § 10084.1(a))

5) Requires the DRE to seek advice and assistance in determining the contents of the booklet from the Department of Health Services, which is now the Department of Public Health (CDPH). (BPC § 10084.1(b))

6) Specifies that if a booklet is delivered to a buyer in connection with the sale of real property, a seller or broker is not required to provide additional information, and that the booklet provides adequate disclosure to the buyer regarding, common environmental hazards that can affect real property. (Civil Code § 2079.7)

7) Required the Department of Toxic Substances Control (DTSC), in cooperation with the California Air Resources Board and the Department of Health Services' Childhood Lead Poisoning Prevention Program, to publish an updated edition of the booklet providing the consumer with information relating to radon gas and lead. (Health and Safety Code (HSC) § 25417.1)

8) Provides consumers information in the booklet regarding carbon monoxide exposure and its detrimental health impacts. (HSC § 13261)

THIS BILL:

1) Recognizes the Residential Environmental Hazards Disclosure Booklet as an important educational tool for consumers.

2) States that it is the Legislature's intent that at the next opportunity to update the booklet, revisions to the updated edition should include three additional chapters relating to wildfires, climate change, and sea level rise.

3) Directs the CDPH to seek the advice and assistance of departments within the Natural Resources Agency when determining the updated content for the booklet in collaboration with the DRE.

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

COMMENTS:

Purpose. This bill is sponsored by the **California Association of Realtors**. According to the author: "As the effects of climate change continue to manifest themselves in the form of sea level rise and an increasing number of wildfires, it is imperative that consumers be provided with the necessary information on these issues when purchasing a home. This is a timely measure that will help consumers make, what is in many cases, the biggest purchase of their life. It is this desire to provide transparency about risks associated with purchasing a home that led to the establishment of this booklet in statute in 1989 and is why it has been updated twice. AB 225 is an attempt to provide more updated information to consumers about the latest risks potential homeowners may face in the future."

Background.

After legislation establishing the booklet was first established through legislation in 1989, the DRE was the department tasked with the responsibility for preparing the first edition of the booklet. The DRE worked alongside the California Department of Health Care Services for valuable input for composing the content that would inform the homeowner and prospective homeowner about environmental hazards located on and affecting residential property. When the booklet's content was updated in 2005, it was prepared through a collaboration of the California Department of Toxic Substances Control, the California Air Resources Board, and the California Department of Health Care Services. The updated content includes information relating to lead exposure, which is a required disclosure to consumers. The 2005 booklet edition also incorporated the Federal "Protect Your Family from Lead" pamphlet.

Under current California law, sellers of real estate properties are required to disclose the presence of any known environmental hazard. In California, sellers are required to disclose the presence of any known environmental hazard. A statement that the homeowner is unaware of environmental hazards is not a guarantee that the property is free of such hazards. It is in any homeowner's and prospective homeowner's interest to know what hazards are common, where they are found, and how they might be mitigated. As noted earlier in the analysis, the booklet was created to provide homeowners and prospective homeowners with the information and additional resources needed to make an informed decision about environmental hazards that may be present on a property. The booklet also includes content that provides information and recommendations for proper storage of household hazardous as well as proper disposal of household hazardous products. The booklet also provides resources, additional information, and a list of government agencies for further information on the topics presented in the material.

The Residential Environmental Hazard Booklet includes information on the following topics:

Chapter 1: Asbestos: The information provided to the consumer offers a general overview of what asbestos is, how it is harmful to our health, how consumers can determine the amount of asbestos within household materials, and how the homeowner should safely repair or remove asbestos. The first section of the booklet concludes by providing the homeowner with contact information for the U.S. EPA Asbestos website. Contact information for DTSC and the American Lung Association is also listed as a resource for additional information. This section closes with sharing contact information with the homeowner for a list of certified asbestos consultants compiled by the Department of Industrial Relations.

Chapter 2: Carbon Monoxide: This chapter describes carbon monoxide, the sources and range of levels of carbon monoxide in the home, how carbon monoxide is harmful, and how to reduce exposure to carbon monoxide. It concludes with a list of governmental entities consumers may contact for additional information pertaining to carbon monoxide. These entities include the U.S. EPA's report examining indoor air quality, basic information on pollutants, and sources of indoor air pollution and carbon monoxide. The list of resources also includes the Agency for Toxic Substances Disease Registry, the Center for Disease Control and Prevention, and the U.S. Consumer Product Safety Commission's carbon monoxide FAQ.

Chapter 3: Formaldehyde: This chapter provides information relating to formaldehyde, how it is harmful, average levels of formaldehyde found in homes, and what are the sources of formaldehyde in the homes. The material included shares additional reports commissioned by the California Air Resources Board, Research Division, Indoor Exposure Assessment Section. The chapter also offers the homeowner publications produced by the California Department of Housing and Community Development.

Chapter 4: Hazardous Waste: This chapter of the booklet offers the homeowner the following information relating to hazardous waste: what constitutes hazardous waste and what is California proactively doing to clean up hazardous waste sites, and how the homeowner could determine if a home is impacted by a hazardous waste site. This section offers the homeowner DTSC's contact information should the homeowner choose to hire a registered environmental assessor through DTSC's Registered Environmental Assessor Program. Finally, this chapter includes information relating to how the homeowner may request from the DRE a publication titled "Disclosures in Real Property Transactions" and a publication from the U.S. Environmental Protection Agency titled, "Ensuring Safe Drinking Water."

Chapter 5: Household Hazardous Waste: This chapter focuses on hazardous materials typically found within a household. This section provides a list of household hazardous waste, methods to identify a household hazardous waste product, how to properly dispose hazardous household products in an environmentally responsible manner, how these products should be safely stored, and, for larger household items, how to contact the state's Department of Resources Recycling and Recovery (CalRecycle) for additional information on safe disposal of household hazardous waste.

Chapter 6: Lead: This chapter covers the detrimental health impacts associated with exposure to lead. The material included in this chapter offers the homeowner evidence about how lead is harmful, and how the homeowner can determine if there is lead exposure within a property. Chapter 6 of the booklet also provides the homeowner with contact information to request a list of certified laboratories equipped to perform an analysis of the amount of lead contained in a home's drinking water.

Chapter 7: Mold: This chapter of the booklet discusses the negative health impact of mold. Specifically, material provided in this chapter explains what mold is, how people are exposed to indoor molds, symptoms associated with mold exposure, recommendations for general cleanup if there is mold detected in the home, and resources, contact information, and informative publications produced and provided by the California Department of Public Health.

Chapter 8: Radon: This final chapter of the booklet discusses the harmful, long-term health implications associated with radon exposure, why it is harmful, where it is present, and how the homeowner may obtain a radon detector. This final chapter of the booklet advises how the homeowner may proactively reduce the radon levels within the home.

The author of this bill has stated that the risks associated with wildfires, climate change, and sea level rise have increased over the last decade to the point where these risks pose a general hazard to most California property owners. Updating the Environmental Hazard Booklet with three new chapters to the booklet would provide consumers with valuable information regarding these risks. Based on previous updates made to the booklet, the author contends that the benefit to buyers far outweighs the cost to update the booklet as existing state statute permits industry to pay for the costs associated with the update.

The author concludes that the effects of climate change continue to manifest themselves in the form of sea level rise and an increasing number of wildfires and that it is imperative that consumers be provided with the necessary information on these issues when purchasing a home.

This is arguably a timely measure that will help consumers make, what is in many cases, the biggest purchase of their lives. It is this desire to provide transparency about risks associated with purchasing a home that led to the establishment of this booklet in statute in 1989 and is why it has been updated twice, subsequently.

This bill is an attempt to provide more information to consumers about the latest risks potential homeowners may face in the future.

Prior Related Legislation.

AB 983 (Bane), Chapter 969, Statutes 1989, required the DRE and its commissioner to develop the Residential Environmental Hazards Disclosure Booklet to inform consumers on common environmental hazards located on and affect real property.

AB 2753 (Sher), Chapter 264, Statutes of 1994, directed the Department of Toxic Substances Control, in cooperation with the California Air Resources Board and the Department of Health Services' Childhood Lead Poisoning Prevention Program, to update the Residential Environmental Hazards Disclosure Booklet for radon gas and lead. This bill also required the booklet to consolidate the state and federal disclosure requirements established by the federal Residential Lead-Based Paint Hazard Reduction Act of 1992.

SB 655 (Ortiz) of 2006, would have established the Asbestos Hazards Mapping Act, which included a requirement to update the Residential Environmental Hazards Disclosure Booklet regarding naturally occurring asbestos. *Status: This bill failed passage on the Assembly Floor.*

SB 183 (Lowenthal), Chapter 19, Statutes of 2010, enacted the Carbon Monoxide Poisoning Prevention Act of 2010 and required carbon monoxide detectors to be installed in all existing dwellings intended for human occupancy that have a fossil fuel burning appliance, a fireplace, or an attached garage. This bill also required the Residential Environmental Hazard Disclosure Booklet to update its content to include information regarding the dangers of carbon monoxide poisoning and exposure.

AB 1289 (Arambula), Chapter 907, Statutes of 2018, among other technical changes, contained provisions that if the Residential Environmental Hazards Disclosure Booklet is provided to a buyer in connection of the sale of real property, that information is deemed adequate to inform the buyer regarding common environmental hazards that affect real property as described in the booklet.

AB 1464 (Glazer) of 2020, would have required DRE to post the Residential Environmental Hazards Disclosure Booklet on its website. *Status: This bill did not receive a hearing date in policy committee.*

AB 2327 (Committee on Environmental Safety and Toxic Materials), Chapter 258, Statutes of 2022, provided numerous technical and reorganization changes to the Carpenter-Presley-Tanner Hazardous Substance Account Act, which includes an update to cross references in Civil Code 2079.7, an existing code section relating to environmental hazards disclosure and information that is provided to consumers during a real estate transaction.

ARGUMENTS IN SUPPORT:

According to the measure's sponsor, the **California Association of Realtors**: "Since the early 2000's C.A.R. has been an active participant in how to address challenges presented by climate change which have led to heat waves, wildfires, floods, persistent droughts, and sea level rise. Sustainability and resilience are vital to combating these threats. Risks associated with wildfires, climate change and sea level rise have increased over the last decade to the point where these risks pose a general hazard to most California property owners." The sponsor argues that "updating the Environmental Hazard Booklet to add three new chapters to the booklet would

provide consumers with valuable information regarding these risks at no cost to the state of California. Based on previous updates made to the booklet, the benefit to buyers far outweighs the cost to update the booklet as existing state statute permits industry to pay for the costs associated with the update."

ARGUMENTS IN OPPOSITION:

None on file.

POLICY ISSUE(S) FOR CONSIDERATION:

The measure, as introduced, does not provide details regarding the exact information that will be provided in the proposed new sections of the booklet. Specifically, the committee recommends the author and sponsor consider adding provisions to clarify the scope of information that will be shared with the homeowner in regards to the topic of climate change. The committee recommends the bill be amended to contain some detail of the material, recommendations, and considerations that would be presented to a perspective or current homeowner and how they could attempt to address climate change.

REGISTERED SUPPORT:

California Association of Realtors

REGISTERED OPPOSITION:

None on file.

Analysis Prepared by: Annabel Smith / B. & P. / (916) 319-3301

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 232 (Aguiar-Curry) – As Amended March 8, 2023

SUBJECT: Temporary practice allowances.

SUMMARY: Allows a therapist who is licensed in another state to provide services to a patient who is traveling or relocating to California for up to 30 consecutive days in a calendar year.

EXISTING LAW:

1) Establishes the Board of Behavioral Sciences (Board) within the Department of Consumer Affairs, responsible for the licensure of marriage and family therapists, clinical social workers, professional clinical counselors, and educational psychologists. (Business and Professions Code (BPC) § 4990)

2) Recognizes that California families and many individual Californians are experiencing difficulty and distress and are in need of wise, competent, caring, compassionate, and effective counseling in order to enable them to improve and maintain healthy family relationships. (BPC § 4980)

3) Defines the practice of marriage and family therapy as the application of psychotherapeutic and family systems theories, principles, and methods in the delivery of services to individuals, couples, or groups in order to assess, evaluate, and treat relational issues, emotional disorders, behavioral problems, mental illness, alcohol and substance use, and to modify intrapersonal and interpersonal behaviors. (BPC § 4980.2)

4) Outlines the application of marriage and family therapy principles and methods includes, but is not limited to, all of the following:

    a) Assessment, evaluation, and prognosis.
    b) Treatment, planning, and evaluation.
    c) Individual, relationship, family, or group therapeutic interventions.
    d) Relational therapy.
    e) Psychotherapy.
    f) Client education.
    g) Clinical case management.
    h) Consultation.
    i) Supervision.

    (BPC § 4980.023 (b))

5) Prohibits any person from engaging in the practice of marriage and family therapy unless they hold a valid license as a marriage and family therapist from the Board, or unless they are specifically exempted from that requirement. (BPC § 4980(b))

6) Prohibits any person from engaging in the practice of clinical social work unless at the time of so doing such person holds a valid, unexpired, and unrevoked license from the Board. (BPC § 4996(b))

7) Prohibits any person from practicing or advertising the performance of professional clinical counseling services without a license issued by the Board. (BPC § 4999.30)

THIS BILL:

1) Allows an out-of-state licensee with a current, active, and unrestricted license in a profession equivalent to the Board's marriage and family therapist, clinical social work, or professional clinical counselor professions to obtain a temporary practice allowance to see traveling or relocating clients for up to 30 consecutive days in a calendar year.

2) 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.

3) Requires the therapist to inform the client of the limited time frame of their services, share their license information with the client, and share the Board's website with the client.

4) Provides that, prior to providing services, the therapist must provide the Board with specified information about their license, identity, and contact information.

5) Includes a sunset date for the bill that aligns with the Board's sunset date in the event that adjustments to the law need to be made after this bill is implemented.

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

COMMENTS:

Purpose. This bill is sponsored by the **Board of Behavioral Sciences**. According to the author: "Current Board licensing law requires a therapist to hold a valid and current California license or registration in order to provide therapy to a client who is physically located in California. There are no exceptions. This may cause continuity of care issues for a client who is temporarily visiting California and needs to see their out-of-state licensed therapist via telehealth. This can also create continuity of care issues for a client who is in the process of permanently moving to California and needs to see their current therapist while searching for a therapist who is licensed in California. [This bill] would grant a 30-day temporary practice allowance to certain qualifying therapists licensed out-of-state to continue treating existing clients who are visiting California or relocating to California."

Background.

The Board's Act requires a therapist to hold a valid and current California license or registration if the individual is engaging in therapy via telehealth with a client who is physically located in California (California Code of Regulations (CCR) Title 16, §1815.5(a)). There are currently no exceptions to this.

The Board has stated that it frequently receives questions from out-of-state licensees who ask if they can continue to see their client via telehealth while the client is temporarily traveling in California, or when the client has moved to the state. The out-of-state licensee often indicates

that the client is high risk and that it is imperative that the client continue to have mental health services. However, current law has no allowance for an out-of-state licensee to continue to see their existing client while the client is traveling in California. Due to the inflexible nature the Board has operated under, there could arguably be unintended consequences that result in a negative impact on an individual's continuity of care and access to timely mental health services.

This issue appears to have become more common due to the sudden increased use of therapy via telehealth during the COVID-19 pandemic. During the pandemic, the California Emergency Management Services Agency (EMSA) implemented a program to allow out-of-state licensed health care practitioners with a pre-existing patient who is moving to California to obtain a 30-day waiver to temporarily continue to provide care to that patient remotely via telehealth. However, this allowance ended on February 28, 2023, due to the state's COVID-19 State of Emergency ending on that date.

In 2020, the Board established a special Telehealth Committee to determine if any of the Board's statutes and regulations related to the practice of telehealth by its licensees, registrants, and trainees need to be updated or clarified. The Board's special Telehealth Committee considered the issue of some flexibility and oversight for temporary practice allowances at several of its meetings. These were public meetings also attended by the Board's stakeholders, who had opportunity for input.

The Board states that it worked to balance the need of out-of-state consumers traveling to California to have continuity of care, while still keeping in mind the concern of the potential for abuse by national online-only telehealth platforms who might be inclined to hire out-of-state therapists with no knowledge of California's laws or training in diverse cultures if there were no safeguards put in place. To strike this balance, the Board states that it examined the features of other states' laws, and put in place safeguard features such as the limitation to only allow 30 consecutive calendar days of therapy per year, and that the client must be a client of the out-of-state licensed therapist immediately before the client becomes located in California. The result of this consideration is the proposal currently in this bill.

Notably, several other states have temporary practice allowances for equivalent out-of-state licensees so that visiting or relocated clients can obtain services from their current therapist for a limited period of time. The chart provided below shows an overview of various states that have passed or adopted new policies when it comes to temporary practice allowances for out-of-state therapists.

**COMPARISON OF OTHER STATE AGENCY LAWS RE:
TELEHEALTH PRACTICE BY OUT-OF-STATE PRACTITIONERS**

State Agency	Limit: Number of Days in Year	Client Disclosure Required	May Only Provide Therapy in Certain Circumstances	Must Reside or Practice Outside the State	Must Notify Board	License Required and Jurisdictions
California Board of Psychology	30 days	No	Not specified	No	No	Licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada.
Arizona (AZ)	90 days	Must inform client not licensed in AZ and of limited nature of services.	Not specified	Yes	No	Must be authorized to perform these services in another state, country or pursuant to the laws of a federally recognized tribe.
Colorado (CO)	20 days	Must inform client not licensed in CO.	Not specified	Yes	No	Currently licensed or certified in another state; services performed only within the scope of that license.

State Agency	Limit: Number of Days in Year	Client Disclosure Required	May Only Provide Therapy in Certain Circumstances	Must Reside or Practice Outside the State	Must Notify Board	License Required and Jurisdictions
District of Columbia (DC)	No limit	No	In an emergency only EXCEPT: • If provided for a limited time in affiliation with an in-state licensee; or • If licensed in adjoining state and registers with DC board.	Yes	Must register if licensed in adjoining state. (Not required if providing emergency services, or if providing time-limited services in affiliation with a DC licensee).	License not required in case of emergency. Otherwise must be licensed, registered or certified as a health professional in another state.
Florida (FL)	15 days	No	Not specified	Yes	No	Licensed or certified to practice by a state or territory of the U.S. or by a foreign country or province.
New Jersey (NJ)	10 consecutive business days or 15 business days in any 90-day period.	No	Not specified	Yes	Must notify within 10 days and provide summary of qualifications	Certified or licensed in another state.

State Agency	Limit: Number of Days in Year	Client Disclosure Required	May Only Provide Therapy in Certain Circumstances	Must Reside or Practice Outside the State	Must Notify Board	License Required and Jurisdictions
Utah (UT)	45 days	No	• Person must have been a client immediately before relocating. • Only allows short-term transitional therapy.	Yes	Must notify within 10 days.	Licensed in a state or territory of the U.S.
Wyoming (WY)	30 days	No	Not specified	Yes	No	Duly authorized to perform the activities and services under the laws of the state or county of the person's residency.

Prior Related Legislation.

SB 229 (Figueroa, Chapter 658, Statutes of 2005) authorized the California Board of Psychology some flexibility regarding temporary practice allowance for out-of-state therapists to see an existing client.

ARGUMENTS IN SUPPORT:

According to the bill's sponsor, the **Board of Behavioral Sciences** (Board): "Current Board licensing law requires a therapist to hold a valid and current California license or registration in order to provide therapy with a client who is physically located in California. There are no exceptions to this. This can cause continuity of care issues for a client who is temporarily visiting California and needs to see their out-of-state licensed therapist via telehealth. It can also complicate the process for a client who permanently moves to California and needs to see their current therapist temporarily while they search for a therapist who is licensed in California." The Board argues that "this proposal successfully strikes a careful balance in ensuring both public protection and mental health continuity of care for individuals who are traveling to this state temporarily, or who are in the process of relocating here."

The California Association of Marriage and Family Therapists support the bill and write: " As the awareness for mental health continues to grow it is also important to acknowledge some of the constraints that we are still seeing in therapist/patient relationships today. This bill would provide clarification to out of state providers on how to handle a patient's temporary travel to the California jurisdiction without the discontinuance of necessary treatment. Along with continuity of care, the bill also highlights that practice is temporary and that out of state licensees should not be practicing within the California borders without a California license."

ARGUMENTS IN OPPOSITION:

None on file.

REGISTERED SUPPORT:

Board of Behavioral Sciences *(Sponsor)*
ATA Action
California Association of Marriage and Family Therapists
Steinberg Institute

REGISTERED OPPOSITION:

None on file.

Analysis Prepared by: Annabel Smith / B. & P. / (916) 319-3301

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 282 (Aguiar-Curry) – As Amended March 21, 2023

SUBJECT: Psychologists: licensure.

SUMMARY: Allows an applicant for licensure as a psychologist to take the required examinations immediately after completing qualifying coursework.

EXISTING LAW:

1) Establishes the Board of Psychology (board) within the Department of Consumer Affairs (DCA), responsible for the licensure and regulation of psychologists, and prohibits a person from engaging in the practice of psychology or representing oneself as a psychologist without a license issued by the board, unless specifically exempted. (Business Professions Code (BPC) § 2900 *et seq*.)

2) 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. (BPC § 2903(a))

3) Provides that the application of these principles and methods includes, but is not restricted to: assessment, diagnosis, prevention, treatment, and intervention to increase effective functioning of individuals, groups, and organizations. (BPC § 2903(b))

4) Describes 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))

5) Clarifies that nothing in the Psychology Licensing Law restricts activities and services of a graduate student or psychology intern enrolled in a doctoral program leading to one of the degrees listed in subdivision (b) of Section 2914 or a trainee in a post-doctoral placement approved by the American Psychological Association, the Association of Psychology Postdoctoral and Internship Centers, or the California Psychology Internship Council. (BPC § 2911)

6) Requires by January 1, 2020, an applicant for licensure shall possess an earned doctoral degree in any of the following: (BPC § 2914(a))

    (a) Psychology with the field of specialization in clinical, counseling, school, consulting, forensic, industrial, or organizational psychology.
    (b) Education with the field of specialization in counseling psychology, educational psychology, or school psychology.

(c) A field of specialization designed to prepare graduates for the professional practice of psychology. (BPC § 2914(b)(1))

7) Requires that an applicant for licensure shall have engaged for at least two years in supervised professional experience under the direction of a licensed psychologist, the specific requirements of which shall be defined by the board in its regulations, or under suitable alternative supervision as determined by the board in regulations duly adopted, at least one year of which shall have occurred after the applicant was awarded the qualifying doctoral degree. (BPC § 2914(c)(1))

8) Stipulates that supervision by a licensed psychologist may be provided in real time, which is defined as through in-person or synchronous audiovisual means, in compliance with federal and state laws related to patient health confidentiality and also requires the supervising licensed psychologist submit verification of the experience to the trainee as prescribed by the board. (BPC § 2914(c)(1))

9) Requires that an applicant for licensure take and pass the examination unless exempted by the board. (BPC §2914(d))

10) Requires an applicant for licensure complete coursework or provide evidence of training in the detection and treatment of alcohol and other chemical substance dependency. (BPC §2914(e))

11) Requires that an applicant for licensure shall complete coursework or provide evidence of training in spousal or partner abuse assessment, detection, and intervention. (BPC § 2914(f))

THIS BILL:

1) Authorizes an applicant for licensure who has completed all academic coursework required for a required doctoral degree to be eligible to take any and all examinations required for licensure.

2) Requires the completion to be documented by a written certification from the registrar of the applicant's educational institution or program,

3) Defines academic coursework as not including participation in an internship or writing a dissertation or thesis.

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

COMMENTS:

Purpose.

This bill is sponsored by the *California Psychological Association*. According to the author, "Current law requires each applicant for licensure as a psychologist to undergo a lengthy process of several consecutive steps resulting in extensive waiting periods for some applications. This causes delays and interruptions to the consumers trying to access mental health treatment and creates a financial burden for the license applicants. This bill will help reduce applicant wait times at the Board of Psychology by streamlining the examination process. These changes will

not affect the quality of the licensing process, but will help to remove of delays in the review process and help associate clinicians providing behavioral healthcare and, on the road, to completing their clinical hours required for licensure."

Background.

The board has experienced a notable increase in the average time to process complete applications for licensure and a significant increase in the average time to process incomplete applications for licensure in the past three fiscal years. Additionally, the number of pending applications has outpaced completed applications. In response to this trend, board staff began in 2015 to review all statutory and regulatory sections related to pathways to licensure and compiled a list of proposed improvements. The board subsequently engaged with stakeholders, hosting review meetings that included professional associations, schools, training directors, and applicants, to get feedback on the board's proposed changes.

This measure is sponsored by the California Psychological Association (CPA) in response to a 2022 survey of its professional membership. The 2022 member survey suggested significant wait times at every step during the licensing process at the Board of Psychology, which resulted in delays to consumers accessing treatment. Each sequential step during the licensure process typically took two to four months to process. In the end, the survey reported that individuals working toward licensure typically experience a wait time lasting about one year. In addition, CPA's 2022 survey of its professional membership, almost 60% reported that the delays created financial hardship and over 30% reported the delays caused interruptions in patient care.

Earlier this year, the board examined CPA's 2022 survey of its membership and acknowledged significant delays for some applicants. The Board noted that there were exorbitant delays for some applicants, who reported 120-day plus waiting periods for some applications. The Board has improved the current wait times, but this bill may help to avoid elongated wait times in future years.

Prior Related Legislation.

AB 2754 (Bauer-Kahan), Chapter 163, Statutes 2022, permits the supervision of a psychologist licensure applicant, and of a registered psychological associate, to be provided through in-person or synchronous audiovisual means and takes effect immediately.

SB 801 (Archuleta), Chapter 647, Statutes 2021, made various changes to the regulation of a number of licensed professionals by the Board of Behavioral Sciences (BBS) and to the Board of Psychology (BOP) intended to improve oversight of licensees stemming from the joint sunset review oversight of the BBS and BOP.

ARGUMENTS IN SUPPORT:

The California Psychological Association, the bill's sponsor, states that "this bill would make an applicant for licensure eligible to take all examinations required for licensure as soon as all coursework required for such a doctoral degree has been completed, as documented by a written certification from the registrar of the applicant's educational institution or program. This important bill was created in response to the CPA membership survey conducted in 2022 that indicated extremely long wait times at the Board of Psychology. Since the survey was completed

and CPA shared the results with the Board of Psychology, wait times have improved. This bill is necessary to create efficiencies at the Board to help avoid long delays in the future."

The **Steinberg Institute** writes in support that "they are pleased to support this bill to modify the licensure process at the Board of Psychology to reduce delays in taking the required licensing examinations and becoming licensed as a psychologist. To reduce delays, this bill would allow applicants for psychology licensure to take the required examinations at any time after completing a qualifying coursework, rather than in a set sequence. The intent of this legislation is to streamline the licensure process to reduce burdensome wait times for applicants and to improve access to care. Amidst the behavioral health workforce shortage, it is critical to do all we can to get new clinicians into the field quickly and efficiently."

The Association of Independent California Colleges and Universities support the bill and add that "the need for mental health services is tremendous. According to data from the Kaiser Family Foundation, nearly one-third of California adults reported symptoms of anxiety and/or depressive disorder in February 2023, yet 28.5% of adults reporting these symptoms had an unmet need for counseling or therapy. More must be done to help individuals receive the care that they need, and the bill is an important proposal that helps streamline the onramp for new graduates to enter the workforce."

ARGUMENTS IN OPPOSITION:

None on file.

REGISTERED SUPPORT:

California Psychological Association (Sponsor)
Association of Independent California Colleges and Universities
California Access Coalition
California Council of Community Behavioral Health Agencies
Steinberg Institute

REGISTERED OPPOSITION:

None on file.

Analysis Prepared by: Annabel Smith / B. & P. / (916) 319-3301

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 342 Valencia – As Amended March 21, 2023

SUBJECT: Architects and real estate appraisers: applicants and licensees: demographic information

SUMMARY: Authorizes the California Architects Board (Board) and the Bureau of Real Estate Appraisers (Bureau) to request specified demographic data from applicants and licensees.

EXISTING LAW:

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

2) Specifies that the boards, bureaus, and commissions under the DCA are "established for the purpose of ensuring that those private businesses and professions deemed to engage in activities which have potential impact upon the public health, safety, and welfare are adequately regulated in order to protect the people of California." (BPC § 101.6)

3) Requires the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians, the Physician Assistant Board, and the Respiratory Care Board to *collect* specified workforce data, including gender or gender identity and race or ethnicity, from their respective licensees and registrants for future workforce planning at least biennially; requires the aforementioned boards to *collect* the specified data at the time of electronic license or registration renewal for those boards that utilize electronic renewals for licensees or registrants. (BPC § 502(a)(1))

4) Requires all other healing arts boards to *request* specified workforce data, including gender or gender identity and race or ethnicity, from their respective licensees and registrants for future workforce planning at least biennially; requires the specified data to be *requested* at the time of electronic license or registration renewal for those boards that utilize electronic renewals for licensees or registrants. (BPC § 502(a)(2))

5) Requires the boards subject to the above requirements to maintain the confidentiality of the information they receive from licensees and registrants and specifies that they can only release information in an aggregate form that cannot be used to identify an individual. (BPC § 502(c))

6) Specifies that a licensee or registrant shall not be required to provide the information as a condition for license or registration renewal and prohibits boards from disciplining licensees or registrants for not providing the specified information. (BPC § 502(f))

7) Requires every board, for a minimum of three years, to retain the final disposition and demographic information, consisting of voluntarily provided information on race and gender, of any applicant with a criminal record who received notice of denial or disqualification of licensure, who provided evidence of mitigation or rehabilitation, or who appealed any denial or disqualification of licensure. (BPC § 480(g))

8) Establishes the Board under DCA to license architects and enforce the Architects Practice Act. (BPC §§ 5500-5610.7)

9) Defines "architect" to mean a person who is licensed to practice architecture in this state. (BPC § 5500)

10) Establishes the Bureau under DCA to license real estate appraisers and enforce the Real Estate Appraisers' Licensing and Certification Law. (BPC §§ 11300-11301)

11) Defines "state licensed real estate appraiser" to mean a person who is issued and holds and current valid license, certificate, permit, registration, or other means issued by the bureau authorizing the person to who it is issued to act pursuant to the Real Estate Appraisers' Licensing and Certification Law. (BPC § 11302(y))

THIS BILL:

1) Authorizes the Board and Bureau to request that an applicant or licensee identify their race and gender on a form prescribed by the board and bureau.

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

COMMENTS:

Purpose. This bill is sponsored by the *American Institute of Architects California*. According to the author:

> It is important that those in the architectural profession, who design and build our communities, reflect the diversity of the communities being served. [This bill] will give the California Architects Board the authority to request demographic information from licensees, which will help promote diversity, equity, and inclusion (DEI). The disclosure of this information will not be mandatory, but the new authority will allow for better assessment, support, and promotion of diversity, equity, and inclusion in the architectural industry. Collecting demographic information is critical to understanding recruitment and attrition patterns. This will enable the industry to develop strategies to address these barriers and create a more diverse and inclusive profession. These values are shared among other industries in the State, and is essential for the Architectural industry's long-term success.

Background.

Executive Order N-16-22: On September 13, 2022, Governor Gavin Newsom issued an executive order directing state agencies and departments to ensure that their strategic plans include policies and practices that promote diversity, equity, and inclusion. More specifically, the executive order requires to state agencies and departments to consult with historically disadvantaged and underserved communities that have been impacted by the agency or department's policies or programs and to incorporate the use of data analysis and inclusive practices to promote equity and address disparities.

Healing Arts Boards and Demographic Data: There are currently 20 boards under DCA that are responsible for licensing and regulating health professionals in California, including the

Acupuncture Board; Board of Behavioral Sciences; Board of Chiropractic Examiners; Dental Board; Dental Hygiene Board; Medical Board; Board of Naturopathic Medicine; Board of Occupational Therapy; Board of Optometry; Osteopathic Medical Board; Board of Pharmacy; Physical Therapy Board; Physician Assistant Board; Podiatric Medical Board; Board of Psychology; Board of Registered Nursing; Respiratory Care Board; Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board; Veterinary Medical Board; and the Board of Vocational Nursing and Psychiatric Technicians.

In order to identify and address workforce shortages and to ensure that California's diverse population has access to culturally and linguistically competent care, the Board of Registered Nursing, Board of Vocational Nursing and Psychiatric Technicians, Physician Assistant Board, and Respiratory Care Board of California have been required, since January 1, 2022, to collect specified workforce data, including gender or gender identity and race or ethnicity, from their respective licensees and registrants. All other boards that regulate healing arts licensees or registrants are required to request the same demographic information. Notably, however, regardless of the board, no licensee or registrant is obligated to provide demographic data. Each board, or DCA on its behalf, is required, beginning July 1, 2022, and quarterly thereafter, to provide the data it collects to the Department of Health Care Access and Information.

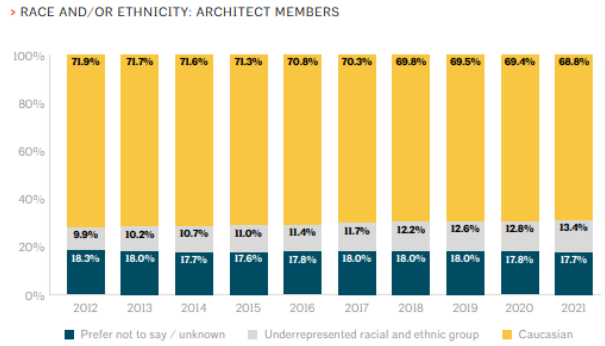
If enacted, the Board would become the first non-healing arts board authorized to request demographic information from licensees.

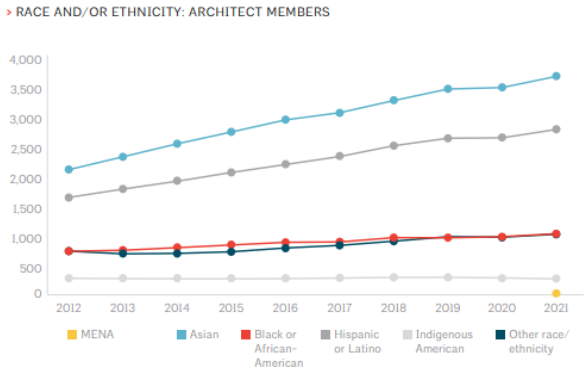
California Architects Board: The Board is responsible for licensing and regulating architects in California. According to its mission statement, the Board "protects consumers by establishing standards for professional qualifications, ensuring competence through examinations, setting practice standards, and enforcing the Architects Practice Act."[1] There are currently more than 21,000 licensed architects in California and approximately 10,000 candidates who are pursuing licensure in this state.

Race and Gender Disparities within the Architecture Profession: Despite some improvement over the past decade, demographic data collected by the American Institute of Architecture indicate significant racial and/or ethnic disparities among its members, with more than two-thirds of architects identifying as Caucasian. Similarly, the data reveal substantial gender disparities, with nearly 75 percent of architects identifying as men.

[1] California Architects Board. (n.d.). *Mission, Vision and Values*. California Architects Board. Retrieved March 16, 2023, from https://www.cab.ca.gov/about_us/mission_vision_and_values.shtml

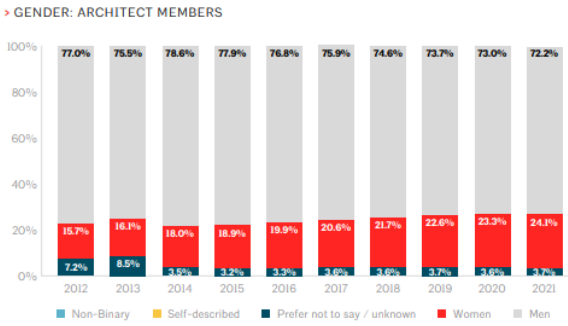
Figures 1 and 2: Race and/or Ethnicity of Architect Members of the American Institute of Architecture





Source: American Institute of Architects 2021 Membership Demographics Report

Figure 3: Gender of Architect Members of the American Institute of Architecture



Source: American Institute of Architects 2021 Membership Demographics Report

Bureau of Real Estate Appraisers: The Bureau is responsible for administering a real estate appraiser licensing certification program as mandated by Title XI of the federal Financial Institutions Reform, Recovery and Enforcement Act, which requires states to license and certify real estate appraisers who appraise property for federally related transactions. The Bureau's mission is to "safeguard public trust by promoting professionalism in the real estate appraisal industry through licensing, education, and enforcement."[2] There are currently more than 9,000 licensed real estate appraisers in California.

Race and Gender Disparities within the Real Estate Appraisal Profession: Labor force statistics from the United States Bureau of Labor reveal significant racial disparities, and modest gender disparities, among property appraisers and assessors nationally, with white Americans accounting for 92.4 percent, and men accounting for 54.5 percent, of property appraisers and assessors.[3]

Usefulness of Demographic Data to the Board and Bureau: This bill would expressly authorize the Board and Bureau to request race and gender information from licensees, which may help the Board and Bureau better understand the demographics of licensed architects and real estate

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[2] California Architects Board. (n.d.). *Mission, Vision and Values*. California Architects Board. Retrieved March 16, 2023, from https://www.cab.ca.gov/about_us/mission_vision_and_values.shtml
[3] U.S. Bureau of Labor Statistics. (2023, January 25). *Labor Force Statistics from the Current Population Survey*. U.S. Bureau of Labor Statistics. Retrieved March 24, 2023, from https://www.bls.gov/cps/cpsaat11.htm

appraisers in California. With this data, the Board and Bureau may also be able to identify possible barriers to licensure and develop strategies to improve recruitment and retention of underrepresented individuals within the professions.

Prior Related Legislation.

AB 2102 (Ting), Chapter 420, Statutes of 2014, required the Board of Registered Nursing, Physician Assistant Board, Respiratory Care Board, and Board of Vocational Nursing and Psychiatric Technicians to collect and report specific demographic data relating to its licensees to the Office of Statewide Health Planning and Development, as specified. *AB 2102 was repealed and replaced by AB 133 (Assembly Budget Committee) Chapter 143, Statutes of 2021.*

AB 2138 (Chiu and Low), Chapter 995, Statutes of 2018, as it relates to this bill, required every board, for a minimum of three (3) years, to retain the final disposition and demographic information, consisting of voluntarily provided information on race and gender, of any applicant with a criminal record who received notice of denial or disqualification of licensure, who provided evidence of mitigation or rehabilitation, or who appealed any denial or disqualification of licensure.

AB 2704 (Ting) of 2020 would have required a board that supervises healing arts licensees to collect specified workforce data from its licensees, to maintain the confidentiality of the information it receives from licensees and only release information in an aggregate form that cannot be used to identify an individual, to produce reports containing the workforce data it collects at least biennially and post aggregate information on its website, and, beginning on July 1, 2021, and annually thereafter, to provide the data it collects to the Office of Statewide Health Planning and Development. *Died pending a hearing in Assembly Business and Professions Committee.*

AB 1236 (Ting) of 2021 was substantially similar to AB 2704. *Died on the Assembly Inactive File.*

AB 133 (Assembly Budget Committee), Chapter 143, Statutes of 2021, as it relates to this bill, required the Board of Registered Nursing, Board of Vocational Nursing and Psychiatric Technicians, Physician Assistant Board, and Respiratory Care Board to *collect* specified workforce data, including gender or gender identify and race or ethnicity, from their respective licensees and registrants for future workforce planning at least biennially. AB 133 also required all other boards that regulate healing arts licensees or registrants to *request* the same workforce data. Additionally, AB 133 required the boards to maintain the confidentiality of the information and specified that they can only release information in an aggregate form that cannot be used to identify an individual. Moreover, AB 133 specified that a licensee or registrant could not be required to provide the information as a condition for license or registration renewal and prohibited the boards from disciplining licensees or registrants for not providing the specified information.

ARGUMENTS IN SUPPORT:

According to the *American Institute of Architects, California*, "the collection of [race and gender] demographic information is essential to [our equity, diversity, and inclusion] efforts, as it allows for research to be done to understand attrition and recruitment patterns impacting the

profession. From there the industry can better develop strategies to address any patterns that create barriers to entry within the profession."

ARGUMENTS IN OPPOSITION:

None on file.

POLICY ISSUE(S) FOR CONSIDERATION:

Privacy: This bill does not require the Board nor Bureau to protect the confidentiality of the information it collects.

Request for information: This bill does not explicitly prohibit licensees from being required to disclose their race and gender as a condition of licensure nor prohibit licensees from being disciplined for not providing the requested information.

Use of data: This bill does not require the Board nor Bureau to do anything with the data it collects. The benefits of collecting demographic information may not be realized without requiring the Board and Bureau to analyze, report, or publish the aggregate data they collect.

Types of Information Requested: This bill does not differentiate between race and ethnicity nor gender and gender identity.

IMPLEMENTATION ISSUES:

Collection of Data: This bill currently does not specify when the Board and Bureau should request the specified demographic information.

AMENDMENTS:

The bill should be amended as follows to do all of the following:

1. To allow the Board and Bureau to request demographic information from new and current licensees, this bill should be amended as follows to specify that the Board and Bureau may request the information when an initial license is issued and at the time of license renewal.

2. To protect licensees' privacy, this bill should be amended to specify that the Board and Bureau shall maintain the confidentiality of the information it receives from licensees and shall only release information in an aggregate form that cannot be used to identify an individual.

3. To ensure that the requested demographic information is provided voluntarily, this bill should be amended to specify that a licensee shall not be required to provide the information as a condition for licensure and that licensees shall not be subject to discipline for not providing the information.

4. To ensure that the information collected is utilized, this bill should be amended to allow the Board and Bureau to publish the aggregate demographic data they collect from licensees on their respective websites and require the Board and Bureau to provide the aggregate demographic data they collect from licensees to DCA. Additionally, DCA

should be required to post the aggregate data that it receives from the Board and Bureau on DCA's website.

5. In recognition of the differences between race and ethnicity and between gender and gender identity, this bill should be amended to authorize the Board and Bureau to request that licensees identify their race *and/or* ethnicity and their gender *and/or* gender identity.

SECTION 1. Section 5552.2 is added to the Business and Professions Code, to read:

5552.2. (1) The board may request that ~~an applicant or~~ a licensee identify their race and/or ethnicity and gender and/or gender identity~~on a form prescribed by the board~~. The data may be requested when an initial license is issued or at the time of license renewal.

(a) The board shall maintain the confidentiality of the information it receives from licensees under this section and shall only release information in an aggregate form that cannot be used to identify an individual.

(b) A licensee shall not be required to provide the information listed in paragraph (1) as a condition for a license or renewal, and licensees shall not be subject to discipline for not providing the information listed in paragraph (1).

(c) The board may publish the aggregate demographic data that it collects pursuant to this section on its website.

(d) The board shall, beginning January 1, 2025, submit the aggregate demographic data that it collects pursuant to this section to the department. The department shall post the information provided by the board on the department's website.

SEC. 2. Section 11347 is added to the Business and Professions Code, to read:

11347. (1) The bureau may request that ~~an applicant or~~ a licensee identify their race and/or ethnicity and gender and/or gender identity~~on a form prescribed by the bureau~~. The data may be requested when an initial license is issued or at the time of license renewal.

(a) The bureau shall maintain the confidentiality of the information it receives from licensees under this section and shall only release information in an aggregate form that cannot be used to identify an individual.

(b) A licensee shall not be required to provide the information listed in paragraph (1) as a condition for a license or renewal, and licensees shall not be subject to discipline for not providing the information listed in paragraph (1).

(c) The bureau may publish the aggregate demographic data that it collects pursuant to this section on its website.

(d) The bureau shall, beginning January 1, 2025, submit the aggregate demographic data that it collects pursuant to this section to the department. The department shall post the information provided by the bureau on the department's website.

REGISTERED SUPPORT:

American Institute of Architects California *(Sponsor)*
International Interior Design Association Northern California Chapter
International Interior Design Association Southern California Chapter

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 470 (Valencia) – As Amended March 13, 2023

SUBJECT: Continuing medical education: physicians and surgeons.

SUMMARY: Updates continuing medical education standards to further promote cultural and linguistic competency and enhance the quality of physician-patient communication.

EXISTING LAW:

1) Establishes the Medical Practice Act, which provides for the licensure and regulation of physicians and surgeons. (Business and Professions Code (BPC) §§ 2000 *et seq.*)

2) Establishes the Medical Board of California (MBC), a regulatory board within the Department of Consumer Affairs comprised of 15 appointed members. (BPC § 2001)

3) Includes among the MBC's responsibilities the administration of a continuing medical education program. (BPC § 2004)

4) Requires the MBC to adopt and administer standards for the continuing education of its licensees; authorizes the MBC to set content standards for any education regarding the prevention and treatment of a chronic disease; and mandates that the board shall require each licensed physician and surgeon to demonstrate satisfaction of continuing education requirements at intervals of not less than four nor more than six years. (BPC § 2190)

5) Allows for continuing medical education requirements to be met by educational activities that meet the standards of the MBC and that serve to maintain, develop, or increase the knowledge, skills, and professional performance that a physician and surgeon uses to provide care, or to improve the quality of care provided to patients. (BPC § 2190.1(a))

6) Requires all continuing medical education courses to contain curriculum that includes cultural and linguistic competency in the practice of medicine and the understanding of implicit bias. (BPC §§ 2190.1(b-e))

7) Requires the MBC to consider requiring a course in human sexuality and nutrition in its continuing education requirements. (BPC § 2191)

8) Requires the MBC's Division of Licensing to encourage every physician and surgeon to take a course in pharmacology as part of their continuing education. (BPC § 2191.1)

9) Requires the MBC's Division of Licensing to encourage every physician and surgeon to take a course in geriatric medicine as part of their continuing education. (BPC § 2191.2)

10) Requires the MBC to consider requiring a course in integrating HIV/AIDS pre-exposure prophylaxis (PrEP) and post-exposure prophylaxis (PEP) medication maintenance and counseling. (BPC § 2191.4)

11) Requires the MBC to consider requiring a course in integrating mental and physical health care in primary care settings. (BPC § 2191.5)

12) Requires the MBC to consider requiring a course in maternal mental health. (BPC § 2196.9)

13) Requires all physicians and surgeons to complete a continuing education course in pain management and the treatment of terminally ill and dying patients, which must include the subject of the risks associated with the use of Schedule II drugs. (BPC § 2190.5)

14) Authorizes a physician and surgeon to complete a one-time continuing education course in the subjects of treatment and management of opiate-dependent patients as an alternative to the required course in pain management. (BPC § 2190.6)

THIS BILL:

1) Revises a criterion listed in statute as an example of educational activities that may be applied toward continuing medical education requirements to expressly include improvement of the quality of physician-patient communication.

2) Requires associations that accredit continuing medical education courses to update their standards for cultural and linguistic competency in conjunction with an advisory group that has expertise in those issues and is informed of federal and state statutory threshold language requirements, with prioritization of languages in proportion to the state population's most prevalent primary languages spoken by 10 percent or more of the state population.

3) Requires the updated standards for cultural and linguistic competency to ensure program standards meet the needs of California's changing demographics and properly address language disparities, as they emerge.

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

COMMENTS:

Purpose. This bill is co-sponsored by the **California Medical Association** and **AltaMed**. According to the author:

> "Patients whose primary language is not English should receive appropriate and culturally competent medical care. AB 470 would ensure Limited English Proficient (LEP), and English as a Second Language (ESL) individuals receive high quality care by improving communications with their physicians. Our State has a disparity between the number of our physicians who speak foreign languages and patient populations whose first language is not English. According to a report released by the UCLA Latino Policy and Politics Initiative, there are only 62.1 Spanish-speaking physicians per 100,000 Limited English Proficient (LEP) individuals. This bill will address language barriers by providing physicians with expanded access to foreign language courses at institutions that accredit Continuing Medical Education courses, so that our healthcare professionals can effectively interact with their patients from diverse backgrounds. Additionally, CME standards may be updated to meet the needs of California's changing demographics as they emerge. This will have a positive impact in communities whose languages are currently underserved by the physician workforce, and allow these healthcare workers to provide culturally competent care."

Background.

Continuing Medical Education for Physicians. All physicians and surgeons licensed by the MBC must complete a minimum of 50 hours of approved continuing medical education during each two-year license renewal cycle. This requirement can be met by taking a variety of approved continuing education courses. The only specifically required courses are a one-time, 12-hour training in pain management and the treatment of terminally ill patients, and a requirement that general internists and family physicians whose patient populations are over 25% 65 years of age and older must take at least 20% of their continuing education in the field of geriatric medicine. However, all approved continuing medical education courses must contain curriculum that includes cultural and linguistic competency in the practice of medicine and the understanding of implicit bias.

When determining what continuing education courses to approve, the MBC's Division of Licensing currently considers programs accredited by the American Medical Association, the Institute for Medical Quality/California Medical Association, and the Accreditation Council for Continuing Medical Education (ACCME), as well as programs that qualify for prescribed credit from the American Academy of Family Physicians. The MBC also has broad authority to consider other programs offered by organizations and institutions acceptable to the MBC.

Cultural and Linguistic Competency. A 2018 study published by the Latino Policy & Politics Initiative at the University of California, Los Angeles found that while nearly 44 percent of the California population speaks a language other than English at home, many of the state's most commonly spoken languages are underrepresented by the physician workforce. The report specifically identified Spanish, Filipino, Thai/Lao, and Vietnamese as underrepresented languages. The report recommended placing an emphasis on language ability in medical school admissions.

Since 2006, all continuing medical education courses approved by accrediting associations have been required to have standards to ensure compliance with a requirement under the Medical Practice Act that all continuing medical education courses contain curriculum that includes cultural and linguistic competency in the practice of medicine. However, the author and sponsors of this bill argue that current standards to not adequately promote education in underrepresented languages. The intent of this bill is to improve the ability of physicians to communicate with patients for whom English is not their primary language.

This bill would require the accrediting associations to update their program standards to ensure they meet the needs of California's changing demographics and properly address language disparities, as they emerge. The associations would be required to consult with an advisory group that has expertise in cultural and linguistic competency issues and is informed of federal and state statutory threshold language requirements. The bill also generally emphasizes the quality of physician-patient communication by adding reference to that priority in its listing of possible criteria for educational activities that meet continuing education standards.

Current Related Legislation. AB 996 (Low) would require regulatory boards to develop and maintain a conflict-of-interest policy. *This bill is pending in this committee.*

Prior Related Legislation. AB 241 (Kamlager-Dove, Chapter 417, Statutes of 2019) required all continuing medical education courses to contain curriculum that includes the understanding of implicit bias.

AB 801 (Diaz, Chapter 510, Statutes of 2003) establishes the Cultural and Linguistic Physician Competency Program to be operated by local medical societies of the California Medical Association (CMA) and to be monitored by the MBC.

ARGUMENTS IN SUPPORT:

The **California Medical Association** (CMA) is co-sponsoring this bill. According to the CMA: "This bill seeks to encourage more physicians to take foreign language courses as part of their CME requirements. This legislation will help physicians better communicate with patients in diverse communities across the state. California is a melting pot of cultures and languages, making it a minority-majority state. In fact, nearly 43% of all Californians speak another language other than English at home. With such a wide variety of ethnic, racial, and religious backgrounds, it is critical that our healthcare professionals can communicate with their patients clearly and effectively in a manner that is culturally appropriate and in the proper language. Similarly, patients should be able to receive the medical care they need without having to overcome language barriers."

AltaMed is also co-sponsoring this bill, arguing that there is "a disparity between the number of physicians who speak foreign languages and patients where English is their second language, resulting in worse satisfaction for patients and providers; worse access, quality, safety, and health outcomes; use of high-cost medical services; and the exacerbation of other social barriers." AltaMed states that "we must address this disparity in order for physicians to better understand their patients' needs and to provide the best care."

ARGUMENTS IN OPPOSITION:

None on file.

REGISTERED SUPPORT:

AltaMed Health Services *(Co-Sponsor)*
California Medical Association *(Co-Sponsor)*
California Commission on Aging
California Health+ Advocates
California Rheumatology Alliance
California State Association of Psychiatrists
Kaiser Permanente
Medical Board of California
National Latino/a Physician Day

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 471 (Kalra) – As Introduced February 6, 2023

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

SUBJECT: Cannabis catering.

SUMMARY: Authorizes the Department of Cannabis Control (Department) to issue a state caterer license that authorizes the licensee to serve cannabis at a private event approved by a local jurisdiction for the purpose of allowing event attendees to consume the cannabis.

EXISTING LAW:

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

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

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

4) Requires the Department to convene an advisory committee to advise state licensing authorities on the development of standards and regulations for legal cannabis, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial cannabis activity that does not impose such barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for cannabis. (BPC § 26014)

5) Establishes grounds for disciplinary action against cannabis licensees, including failures to comply with state licensing requirements as well as local laws and ordinances. (BPC § 26030)

6) Prohibits a cannabis licensee from selling alcoholic beverages or tobacco products on its premises. (BPC § 26054)

7) Requires cannabis or cannabis products purchased by a customer to be placed in an opaque package prior to leaving a licensed retail premises. (BPC § 26070.1)

8) Expresses that state cannabis laws shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabis businesses. (BPC § 26200(a))

9) Authorizes the Department to issue a state temporary event license to a licensee authorizing onsite cannabis sales to, and consumption by, persons 21 years of age or older at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature, provided that the activities comply with the following:

   a) Access to the area where cannabis consumption is allowed is restricted to persons 21 years of age or older, cannabis consumption is not visible from any public place or nonage-restricted area, and the sale or consumption of alcohol or tobacco is not allowed on the premises.

   b) All participants who are engaged in the onsite retail sale of cannabis or cannabis products at the event are licensed to engage in that activity.

   c) The activities are otherwise consistent with regulations promulgated and adopted by the Department governing state temporary event licenses.

   d) A state temporary event license shall only be issued in local jurisdictions that authorize such events.

   e) A licensee who submits an application for a state temporary event license shall, 60 days before the event, provide to the department a list of all licensees that will be providing onsite sales of cannabis or cannabis products at the event.

   (BPC § 28200(e))

10) Authorizes a local jurisdiction to allow for cannabis use on the premises of a cannabis retailer or microbusiness that does not sell or allow for the consumption of alcohol or tobacco on the premises, among other restrictions. (BPC § 26200(g))

THIS BILL:

1) Authorizes the Department to issue a state caterer license that authorizes the licensee to serve cannabis at a private event approved by a local jurisdiction for the purpose of allowing event attendees to consume the cannabis or cannabis products.

2) Defines “private event” as an event that is not open to the public and is not hosted, sponsored, or advertised by the caterer licensee.

3) Requires that access to the area where cannabis is consumed at a catered private event be restricted to persons 21 years of age or older and that the area not be visible to any public place or nonage-restricted area.

4) Allows for a cannabis caterer licensee to serve cannabis or cannabis products at a private event that the caterer brought to, but did not serve at, a prior event, if the cannabis or cannabis products have not been removed from their original packaging.

5) To the extent authorized by the local jurisdiction, permits the consumption of alcohol or tobacco consumption on the premises of an event approved to be catered if no alcoholic beverage license is required.

6) Prohibits a caterer licensee from selling, serving, or providing alcoholic beverages on the premises of an event approved to be catered.

7) Prohibits a caterer licensee from serving cannabis or cannabis products at any one premises for more than 36 events in one calendar year, unless the local jurisdiction determines additional events may be catered to satisfy substantial public demand.

8) Exempts applicants for licensure as a caterer from various requirements that cannabis license applicants provide information regarding the location or premises where they intend to engage in regulated activity.

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

COMMENTS:

Purpose. This bill is sponsored by the **United Cannabis Business Association**. According to the author:

> "Despite recreational cannabis becoming an integral part of the California experience for visitors and residents alike, the state has yet to regulate cannabis catering at hotels and throughout the travel industry. Safety is paramount for not only California's hospitality workforce but the visitors to the state so that there may be controlled, mindful consumption of cannabis at hospitality group gatherings like weddings. AB 471 would ensure greater oversight by authorizing the Department of Cannabis Control (DCC) to create cannabis catering licenses so that licensees can serve cannabis or cannabis products at private events."

Background.

Brief History of Cannabis Regulation in California. Consumption of cannabis was first made lawful in California in 1996 when voters approved Proposition 215, or the Compassionate Use Act. Proposition 215 protected qualified patients and caregivers from prosecution relating to the possession and cultivation of cannabis for medicinal purposes, if recommended by a physician. This regulatory scheme was further refined by SB 420 (Vasconcellos) in 2003, which established the state's Medical Marijuana Program. After several years of lawful cannabis cultivation and consumption under state law, a lack of a uniform regulatory framework led to persistent problems across the state. Cannabis's continued illegality under the federal Controlled Substances Act, which classifies cannabis as a Schedule I drug ineligible for prescription, generated periodic enforcement activities by the United States Department of Justice. Threat of action by the federal government created apprehension within California's cannabis community.

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

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

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

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

Cannabis Consumption and Temporary Events. Proposition 64 made it generally lawful for persons 21 years of age or older to smoke or ingest cannabis or cannabis products. There are few restrictions on adults consuming cannabis on private property; for example, MAUCRSA does not generally prohibit the co-consumption of cannabis and alcohol in a private setting. However, Proposition 64 did not permit any person to smoke or ingest cannabis products in a public place; in a location where smoking tobacco is prohibited; within 1,000 feet of a school, day care center, or youth center while children are present; or while driving, operating, or riding in a vehicle.

While MAUCRSA generally prohibits smoking, vaporizing, or ingesting cannabis or cannabis products in any public place. However, Proposition 64 authorized local jurisdictions to allow for the smoking, vaporizing, and ingesting of cannabis or cannabis products on the premises of a retailer or microbusiness licensed under certain conditions. This language gave cities and counties the option of locally authorizing the establishment of settings like "consumption lounges" where cannabis use can occur socially.

MAUCRSA also authorizes the Department to approve temporary event licenses to current cannabis licensees, which authorize onsite cannabis sales to, and consumption by, persons 21 years of age or older. These temporary events can take place at a county fair event, district agricultural association event, or at another venue expressly approved by a local jurisdiction for the purpose of holding temporary events of this nature. Local jurisdictions must authorize these events for them to be approved by the Department.

Both consumption lounges on retail premises and temporary events place additional restrictions on where cannabis or cannabis premises may be consumed. Access to the area where cannabis consumption is permitted must be restricted to persons who are 21 years of age or older.

Cannabis consumption may not visible from any public place or nonage-restricted area. Finally, the sale or consumption of alcohol or tobacco on the premises is strictly prohibited.

Cannabis Catering for Private Events. This bill seeks to create a regulatory environment specifically intended to allow for cannabis catering at private events such as weddings. The intent of the author is to allow for a new category of licensee to bring pre-purchased cannabis to an event location where it can be provided for free to guests, similar to how an "open bar" for alcoholic beverages functions at similar events. The caterer would not themselves be licensed as a retailer.

This model would be distinct from the existing temporary event license in several ways. First, only those already licensed by the Department under MAUCRSA, such as retailers and microbusinesses, may receive a temporary event license; this bill would allow individuals not otherwise licensed to serve as caterers if approved by the Department. Second, this bill would allow cannabis to be provided free of charge to event guests, prepaid by the event host; temporary events only allow for individual sales to take place on the premises. Finally, while alcohol and tobacco are prohibited at temporary events, this bill would allow for the consumption of both at private catered events within specified parameters.

Current Related Legislation. AB 374 (Haney) would authorize a local jurisdiction to allow for a cannabis retailer to conduct business activities on the premises other than the consumption of cannabis or cannabis products, including, but not limited to, selling non-cannabis-infused food, selling nonalcoholic beverages, and allowing, and selling tickets for, live musical or other performances. *This bill is pending in this committee.*

Prior Related Legislation. AB 2844 (Kalra) was substantially similar to this measure. *This bill died on the Assembly Appropriations Committee's suspense file.*

AB 2210 (Quirk, Chapter 391, Statutes of 2022) authorized the Department to issue a state temporary event license for an event held at a venue that is licensed by the Department of Alcoholic Beverage Control under certain conditions.

AB 2020 (Quirk, Chapter 749, Statutes of 2018) authorized a state temporary event license to be issued to a licensee for an event to be held at any other venue expressly approved by a local jurisdiction for events.

ARGUMENTS IN SUPPORT:

The **California Travel Association** (CalTravel) supports this bill. CalTravel states: "Despite recreational cannabis consumption becoming an integral part of the California experience for visitors and residents, there is a gap in current DCC authority to license controlled consumption of cannabis at hospitality gatherings." CalTravel argues that "AB 471 creates increased flexibility for the hospitality industry to responsibly integrate cannabis into visitor experiences."

ARGUMENTS IN OPPOSITION:

None on file.

REGISTERED SUPPORT:

California Travel Association

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 633 (Jim Patterson) – As Introduced February 9, 2023

SUBJECT: Nursing: licensure: renewal fees: reduced fee.

SUMMARY: Authorizes the Board of Registered Nursing (BRN) to reduce the license renewal fee for registered nurses (RNs), but no less than one-half, if they meet specified retirement conditions and only provide services for free or for nominal charges.

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) Provides for the regulation and licensure of various professions and vocations by boards, bureaus, and other entities within the DCA. (BPC §§ 100-144.5)

3) Regulates and licenses the practice of nursing under the Nursing Practice Act and establishes the BRN within the DCA to administer and enforce the act. (BPC §§ 2700-2838.4)

4) Requires RNs to renew their licenses biennially and requires the BRN to establish a renewal fee no greater than $750. (BPC § 2815(d))

5) Regulates the practice of medicine through the licensure of physician and surgeons under the Medical Practice Act, which establishes the Medical Board of California (MBC) within the DCA to administer and enforce the act. (BPC §§ 2000-2529.6)

6) Requires physicians and surgeons to renew their licenses biennially and requires the MBC to establish a renewal fee no greater than $863. (BPC § 2435)

7) Requires the MBC to waive the initial license and renewal fees for physician and surgeons who only provide voluntary, unpaid service. (BPC §§ 704(a), 2083, 2442)

8) Regulates the practice of dentistry through the licensure of dentists under the Dental Practice Act, which establishes the Dental Board of California (DBC) within the DCA to administer and enforce the act. (BPC §§ 1600-1976)

9) Requires dentists to renew their licenses biennially and requires the DBC to establish a renewal fee of no greater than $800. (BPC § 1724(d))

10) Authorizes the DBC to reduce the renewal fee, but no less than one-half the normal renewal fee, for a licensee who has practiced dentistry for 20 years or more in this state, has reached the age of retirement under the federal Social Security Act, and customarily provides services free of charge to any person, organization, or agency. If charges are made, they must be nominal and the aggregate amount of the nominal charges in any single calendar year must be lower than an amount that would render the licensee ineligible for full social security benefits. (BPC § 1716.1(a))

11) Regulates and licenses the practice of optometry under the Optometry Practice Act, which establishes the State Board of Optometry (SBO) within the DCA to administer and enforce the act. (BPC §§ 3000-3167)

12) Requires optometrists to renew their licenses biennially and requires the SBO to establish a renewal fee no greater than $500. (BPC § 3152(d))

13) Requires the SBO to issue, upon payment of a reduced $50 fee and a $50 renewal fee biennially, a license with a retired volunteer service designation to an optometrist who meets specified requirements and certifies on the application that the sole purpose of the license with retired volunteer service designation is to provide voluntary, unpaid optometric services at health fairs, vision screenings, and public service eye programs. (BPC § 3151.1)

THIS BILL:

1) Authorizes the BRN to reduce an RN's renewal fee by up to one-half the regular amount if the RN meets the following qualifications:

   a) Have been licensed to practice under this chapter for 20 years or more in this state.

   b) Have reached the age of retirement under the federal Social Security Act.

   c) Customarily provide their services free of charge to any person, organization, or agency. Any charge made must be nominal, and the aggregate of charges in any single calendar year may not exceed an amount that would render the licensee ineligible for full social security benefits.

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

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author, "The need for nurses is severe throughout the state, even in volunteer capacities. During this ongoing public health crisis, this need has become critical. By reducing the fee for retired registered nurses to renew their professional license, the state will be able to continue utilizing the knowledge, skills, and experience of these nurses at a time when it has never been more needed."

Background. In general, professional licensing programs serve to protect the public from trades or professions that may carry a higher risk of harm. To that end, the programs require an active license to practice, which demonstrates a minimum level of training, competency, and fitness to practice. Maintaining a license can be burdensome due to ongoing fees and continuing education requirements, so many who leave practice or retire will give up their license.

However, some licensees may still wish to maintain some level of license for purposes of volunteer work or in case they need to resume work. As a result, many licensing boards offer a retired or inactive category of licensure, though not all allow for volunteer work, including the BRN.

RNs have the option to change their license to inactive status, but they are not allowed to practice as an RN. While they are not required to complete the required 30 hours of continuing education every renewal, they continue to pay the full $190 renewal fee. A licensee may choose this status

if they have no immediate need for an active license, but wish to avoid paying the delinquent renewal fee. If they wish to begin practicing again, they must submit proof of 30 hours of continuing education completed within the past two years, certify compliance with the fingerprint requirement, and report any license discipline or convictions.

Other non-practicing RNs may simply let their license lapse. If they wish to resume practicing in less than 8 years, they must submit a $280 delinquent renewal fee and proof of 30 hours of continuing education completed within the prior two-year period. After 8 years, the former licensee would be required to have an active license in another state or retake the licensing examination.

This bill would instead allow the BRN to reduce fees for licensees who retire but wish to maintain their license for purposes of volunteer work. This is identical to the authorization provided to the Dental Board of California. Other boards that have reduced or completely waived fees include the Medical Board of California and the California State Board of Optometry.

The goal of this bill is to extend the pool of available RNs in the event of shortages, which may help reduce inequities in RN shortage areas, although it is unclear to what extent. If the BRN chooses to establish a lower fee, this bill may help improve access to care in areas where retirees are willing to continue to provide free or low-cost services while maintaining a reduced-fee license.

Prior Related Legislation. AB 269 (Patterson) of 2021, which was held on suspense in the Assembly Appropriations Committee, was the same as this bill.

SB 1261 (Stone), Chapter 239, Statutes of 2016, required the Medical Board of California to waive the initial license and renewal fees for physician and surgeons who only provide voluntary, unpaid service.

SB 1215 (Emmerson), Chapter 359, Statutes of 2012, authorized the State Board of Optometry to issue a retired volunteer service designation for a limited fee to licensees who provide voluntary, unpaid optometric services at health fairs, vision screenings, and public service eye programs.

AB 2847 (Felando), Chapter 419, Statutes of 1992, authorized the Dental Board of California to reduce the renewal fee for licensed dentists in a manner identical to this bill.

ARGUMENTS IN SUPPORT:

The *California Association for Health Services at Home (CAHSAH)* writes in support, “With the increased costs of the public health emergency, it is prudent to remove any burden placed on essential health care workers. Anything that California can do to reduce the burden for nurses to continue to remain practicing in our state is vital to ensuring that California has enough nurses to care for our increasing aging population. The cost of education to obtain a nursing degree has increased tremendously in California and it is prudent to reward nurses who have practiced in our state for several years by reducing their annual licensure renewal fees. Ideally, CAHSAH would like to see this fee reduction expanded to all nurses who have practiced at least 10 years in California.”

The *California Nurses Association* writes in support, “The need for nurses is severe throughout the state, even in volunteer capacities. During this ongoing public health crisis, this need has

become critical. [This bill] will allow the Board of Registered Nursing to offer a discounted fee for retired nurses looking to renew their licenses so that they can offer their services in a volunteer capacity. By reducing the fee for retired registered nurses, the state will be able to continue utilizing the knowledge, skills, and experience of these nurses, when they have never been more needed. California has a great opportunity to align with many other states across the nation to take advantage of this wealth of knowledge being offered by these altruistic nurses who want to continue to serve our community."

The *County Health Executives Association of California (CHEAC)* writes in support, "Prior to the COVID-19 pandemic, many areas in California faced nursing shortages. The pandemic, however, exacerbated the stress and burnout among nurses and according to a University of California San Francisco study, a shortage of registered nurses in our state was estimated to continue in 2022. Local health departments relied on nurses, including our public health nurses, to support pandemic response efforts, including, but not limited to testing, vaccinations, and disease investigations. Many of these nurses were retired nurses volunteering their time. [This bill] would incentivize retired nurses to maintain their licensure and grow the pool of ready volunteers that can respond during public health emergencies."

The *Nursing Leadership Coalition of the Central San Joaquin Valley (NLC)* writes in support, "The NLC is a strong representation of the nursing voice in the Central Valley. We see firsthand every day the impact of this part of California being a medical desert. We have fewer physicians and nurses than other regions in the state and increased difficulty recruiting them to work in the valley. The ability to continue to utilize retired nurses in a volunteer status for supporting our overburdened work force and meeting community health needs would make be a difference maker."

ARGUMENTS IN OPPOSITION:

None on file

REGISTERED SUPPORT:

California Association for Health Services At Home
California Nurses Association
County Health Executives Association of California (CHEAC)
Nursing Leadership Coalition Central San Joaquin (NLC)

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 783 (Ting) – As Introduced February 13, 2023

SUBJECT: Business licenses: single-user restrooms.

SUMMARY: Requires cities to provide written notice to applicants for a business license of the requirement that single-user toilet facilities be identified as all-gender toilet facilities.

EXISTING LAW:

1) Requires every public agency conducting an establishment serving the public or open to the public, and that maintains restroom facilities for the public, to make every water closet for each sex maintained within the facilities available without cost or charge. Defines public agency for these purposes as any agency of the state, city, county, or city and county. (Health and Safety Code (HSC) § 118500)

2) Requires publicly and privately owned facilities where the public congregates, with exceptions, to be equipped with sufficient temporary or permanent restrooms to meet the needs of the public at peak hours. Defines "facilities where the public congregates" for these purposes to mean sports and entertainment arenas, community and convention halls, specialty event centers, amusement facilities, and ski resorts. (HSC § 118505)

3) Requires all single-user toilet facilities, as defined, in any business establishment, place of public accommodation, or state or local government agency to be identified as all-gender toilet facilities by signage that complies with California building standards and designated for use by no more than one occupant at a time or for family or assisted use. (HSC § 118600(a))

4) Defines "single-user toilet facility" to mean a toilet facility with no more than one water closet and one urinal with a locking mechanism controlled by the user. (HSC § 118600(c))

5) Defines "toilet facility" to mean a room or space containing not less than one lavatory and one water closet. (Title 24 California Code of Regulations 220.0)

6) Defines "toilet room" to mean a room within or on the premises containing water closets, urinals, and other required facilities. (Title 24 California Code of Regulations 220.0)

7) Requires separate toilet facilities to be provided for each sex, except in residential settings or in the following circumstances:

    a) In occupancies with a total occupant load, including customers and employees, of 15 or fewer.

    b) In mercantile occupancies in which the maximum occupant load is 100 or fewer.

    c) In business occupancies in which the maximum occupant load is 25 or fewer.

    d) Where single-user toilet rooms are provided.

e) Where rooms having both water closets and lavatory fixtures are designed for use by both sexes and privacy for water closets are installed as specified. Urinals shall be located in an area visually separated from the remainder of the facility or each unial that is provided shall be located in a stall.

(Title 24 California Code of Regulations 2902.2)

8) Requires single-user toilet facilities and family or assisted-use toilet facilities to be identified as being available for use by all persons regardless of their sex. (Title 24 California Code of Regulations 2902.1.2)

9) Requires, where a separate toilet facility is required for each sex, and each toilet facility is required to have only one water closet, two family or assisted-use toilet facilities must be permitted to serve as the required separate facilities. (Title 24 California Code of Regulations 2902.2.1)

THIS BILL:

1) Requires a city that licenses businesses within its jurisdiction to provide written notice to each applicant for a new or renewed business license of the requirement that all single-user toilet facilities in any business establishment, place of public accommodation, or state or local government agency be identified as all-gender toilet facilities by signage that complies with California building standards and designated for use by no more than one occupant at a time or for family or assisted use.

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

COMMENTS:

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

> Restrooms are a necessity of life, and access to them influences our ability to participate in public life. Restricting access to single-occupancy restrooms by gender creates problems of safety, fairness, and convenience. This issue disproportionately impacts members of the LGBTQ+ community, women, and parents and caretakers of dependents of the opposite gender. My bill, AB 1732, passed in 2016 and required all single-occupancy restrooms in businesses, government buildings, and places of public accommodation be available to everyone. Now, we must enforce existing law to ensure equal access to this solitary room. All-gender single-occupancy restroom facilities benefit everyone. [This bill] is an important follow-up to that landmark legislation that ensures businesses are complying with the law by requiring cities to issue written notice to business license applicants that all single-occupancy restrooms be designated as "all-gender."

Background.

Gender-Neutral Restrooms. According to the Williams Institute at the University of California, Los Angeles School of Law, which researches sexual orientation and gender identity and public

policy, an estimated 1.6 million people ages 13 and older identify as transgender in the United States.[1] In one study on the experiences of transgender and gender non-conforming people in public restrooms in Washington, D.C., 18% of respondents reported being denied access to at least one gender-specific restroom, 68% of respondents reported experiencing at least one instance of verbal harassment, and nine percent of respondents reported experiencing at least one instance of physical assault.[2] The author concluded that "negative experiences in public restrooms impacted respondents' education, employment, health, and participation in public life."[3]

Need for the bill. In 2016, the Legislature passed AB 1732 (Ting), requiring businesses, places of public accommodation, and state or local government agencies that offer a single-user toilet facility to be designated as an all-gender toilet facility. Although that bill authorizes an inspector, a building official, or another local official responsible for code enforcement to inspect businesses for compliance, it did not include an enforcement mechanism. The author and sponsor of this bill argue that anecdotal evidence suggests that some businesses are not complying with the law. This bill seeks to improve compliance by ensuring that businesses are aware of the existing requirements, which the author believes "would help reduce inequities experienced by the LGBTQ+ community, women, and people living with disabilities by ensuring equal access to restrooms."

Current Related Legislation.

SB 760 (Newman) would require, on or before January 1, 2025, each school district, county office of education, and charter school, maintaining any combination of classes from kindergarten to grade 12, inclusive, to provide at least one all-gender restroom for student use.

Prior Related Legislation.

AB 1732 (Ting), Chapter 818, Statutes of 2016, requires businesses, places of public accommodation, and state or local government agencies that offer a single-user toilet facility to be designated as an all-gender toilet facility and authorizes an inspector, a building official, or another local official responsible for code enforcement to inspect for compliance.

SB 1194 (Allen) Chapter 839, Statutes of 2022, authorizes a local government to require, by ordinance or resolution, that multiuser public toilet facilities within its jurisdiction be designed, constructed, and identified for use by all genders.

ARGUMENTS IN SUPPORT:

According to *Equality California*:

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[1] Herman, J. L., Flores, A. R., & O'Neill, K. K. (2022, June). *How many adults and youth identify as transgender in the United States?* Williams Institute. Retrieved March 24, 2023, from https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/

[2] Herman, J. L. (2013, June). *Gendered Restrooms and Minority Stress*. Williams Institute. Retrieved March 24, 2023, from https://williamsinstitute.law.ucla.edu/publications/gendered-restrooms-minority-stress/

[3] Ibid.

> The U.S. Department of Labor's Occupational Safety and Health Administration has named gender-neutral single-occupancy restrooms as a best practice in the workplace. Single-occupancy restrooms increase safety, fairness, and convenience. Designating these bathrooms as gender-neutral protects transgender and gender non-conforming individuals and increases access for women, parents of differently-gendered children, and people living with disabilities who rely on caretakers of a different gender.
>
> AB 1732 (Chapter 818, Statutes of 2016) enacted the nation's most progressive restroom access policy in the country, requiring that all single-occupancy restrooms in businesses, government buildings, and places of public accommodation be available to everyone. The bill authorized health inspection officials to check for compliance with this law during a health inspection. Unfortunately, anecdotal evidence suggests that implementation of AB 1732 remains limited in some parts of the state.
>
> Through AB 1732, California committed to ensuring that there is equal access to gender-neutral single-occupancy restrooms. [This bill] follows through on that commitment to ensure that businesses comply with existing law.

ARGUMENTS IN OPPOSITION:

None on file.

IMPLEMENTATION ISSUE(S) FOR CONSIDERATION:

Enforcement. While this bill may improve compliance by ensuring that businesses are aware of the requirement that single-user restrooms be identified as all-gender toilet facilities, this bill does not address non-compliance by choice. To the extent that businesses are aware of the requirement and choose not to comply, there is no enforcement mechanism in this bill to remedy this problem.

REGISTERED SUPPORT:

ACLU California Action
California LGTBQ Health and Human Services Network
Desert Aids Project D/b/a Dap Health
Equality California
Somos Familia Valle
Stonewall Alliance of Chico
Transyouth Liberation

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 826 (Chen) – As Introduced February 13, 2023

SUBJECT: Podiatric medicine: continuing education.

SUMMARY: Deletes the requirement that licensed doctors of podiatric medicine (DPMs), at each license renewal, satisfy one of the eight continuing competence requirements listed under the Medical Practice Act.

EXISTING LAW:

1) Regulates the practice of podiatric medicine under the Medical Practice Act. (Business and Professions Code (BPC) §§ 2460-2499.8)

2) Establishes the Podiatric Medical Board of California (PMBC) within the Department of Consumer Affairs to license DPMs and administer and enforce the podiatric medicine provisions of the Medical Practice Act. (BPC §§ 2460-2471)

3) Defines "podiatric medicine" as the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot, and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot. (BPC § 2472(b))

4) Requires the PMBC to adopt and administer regulations requiring continuing education of DPMs. (BPC § 2496)

5) Requires DPMs to complete 50 hours of PMBC-approved continuing education, including a minimum of 12 hours in subjects related to the lower extremity muscular-skeletal system. (California Code of Regulations, Title 16, § 1399.669(a))

6) Requires the PMBC to require DPMs to demonstrate compliance with the continuing education requirements and one of eight additionally listed requirements at each license renewal. (BPC §2496(a)-(h))

    a) Passage of an examination administered by the PMBC within the past 10 years. (BPC § 2496(a))

    b) Passage of an examination administered by an approved specialty certifying board within the past 10 years. (BPC § 2496(b))

    c) Current diplomate, board-eligible, or board-qualified status granted by an approved specialty certifying board within the past 10 years. (BPC § 2496(c))

    d) Recertification of current status by an approved specialty certifying board within the past 10 years. (BPC § 2496(d))

    e) Successful completion of an approved residency or fellowship program within the past 10 years. (BPC § 2496(e))

f) Granting or renewal of current staff privileges within the past five years by a health care facility that is licensed, certified, accredited, conducted, maintained, operated, or otherwise approved by an agency of the federal or state government or an organization approved by the Medical Board of California. (BPC § 2496(f))

g) Successful completion within the past five years of an extended course of study approved by the PMBC. (BPC § 2496(g))

h) Passage within the past 10 years of Part III of the examination administered by the National Board of Podiatric Medical Examiners. (BPC § 2496(h))

THIS BILL:

1) Deletes the requirement that the PBMC require DPMs to demonstrate completion of one of the continuing competence license renewal requirements that are listed in addition to the continuing education requirement.

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

COMMENTS:

Purpose. This bill is sponsored by the *Podiatric Medical Board of California*. According to the author, "[This bill] will modernize renewal requirements for Doctors of Podiatric Medicine (DPM) by standardizing the curriculum taught to each medical degree. Business and Professions Code (a-h) is a code that is considered to be outdated for this profession and burdensome for applicants to the Podiatric Medical Board of California. This code went into effect in 1999 when some DPMs were surgically trained, and others were not, all of which was dependent on when they graduated from podiatric medical school. Deleting this code, which is what this bill does, is a needed update to this profession which has been done across the country."

Background. DPMs are healthcare providers who practice medicine on the human foot, including the ankle and tendons that insert into the foot. They may also provide nonsurgical and limited surgical treatment of the muscles and tendons of the leg governing the functions of the foot, including wound care for ulcers.

DPMs are licensed and regulated by the PMBC and are required to renew their licenses every two years. At the time of renewal, DPMs must complete 50 hours of PMBC-approved continuing education coursework, including a minimum of 12 hours in subjects related to the lower extremity muscular-skeletal system. The goal of the continuing education requirements, like in other professions, is to support ongoing competence as the podiatric medical field develops.

Expanded Continuing Competence. After 1998, renewing DPMs were also required to complete one of several additional requirements, currently called "continuing competence pathways" in the PMBC's regulations. According to the PMBC, the pathways were part of a unique pilot program to address disparities in podiatric training, assist with professional acceptance, and hospital privileging.

The PMBC first recommended the expanded requirements to the Joint Legislative Sunset Review Committee (JLSRC) during its 1996-97 Sunset Review. At the time, committee staff recommended supporting the PMBC's recommendation in concept, but that the PMBC should indicate what the impact would be on current licensees attempting to fulfill the new requirements before any proposal was adopted. The JLSRC adopted the recommendation, and the proposal was included in the 1998 Sunset Review bill.

The seven initial requirements were:

1) Passage of an examination administered by the PMBC within the past 10 years.

2) Passage of an examination administered by an approved specialty certifying board within the past 10 years.

3) Current diplomate, board-eligible, or board-qualified status granted by an approved specialty certifying board within the past 10 years.

4) Recertification of current status by an approved specialty certifying board within the past 10 years.

5) Successful completion of an approved residency or fellowship program within the past 10 years.

6) Granting or renewal of current staff privileges within the past five years by a health care facility that is licensed, certified, accredited, conducted, maintained, operated, or otherwise approved by an agency of the federal or state government or an organization approved by the Medical Board of California.

7) Successful completion of an approved course of study of at least four weeks' duration at an approved school within the past five years.

Difficulties with Expanded Competency Pathways. The issue was raised again during the JLSRC 2001-02 Sunset Review of the PMBC. At the time, the PMBC continued to support the new competency requirements, however, committee staff noted that some licensees were having difficulty meeting the new requirements.

DPMs who had been licensed for more than 10 years, had no peer-reviewed hospital privileges, and were not board certified, were required to either take the PMBC's licensing examination or complete a special training course sponsored by a PMBC-approved school. However, the examination was the only actual choice for those licensees. While the PMBC had approved a program at two different institutions, the PMBC noted that administrative transitions at both of those institutions had hampered the program's development.

As a result, the JLSRC recommended that the PMBC's continuing competency program be refined to provide additional pathways and ease compliance for those licensees. The resulting change in the 2002 Sunset Review bill was the eighth pathway in current law: passage within the past 10 years of Part III of the examination administered by the National Board of Podiatric Medical Examiners.

At the time, the PMBC's eventual goal was still to eventually tighten the pathways as licensees grew accustomed to the new requirements, but the new pathway was intended to at least provide the PMBC an alternative to waiving the requirement or terminating the licenses of older practitioners.

Ongoing Need for Continuing Competency Pathways. On March 12, 2021, the PMBC voted to delete the additional requirements for renewal but maintain the 50 hours of continuing education requirement. According to the PMBC, "When [the requirements] became effective in 1999, some DPMs were surgically trained, and others were not, dependent upon their year of graduation from podiatric medical school…. The concerns from 25 years ago are no longer present and the Podiatric Medical Board of California no longer supports the additional renewal requirements…. The Board's discussion included the fact that these additional renewal requirements could be viewed as a restraint on trade and the Board would like to modernize its renewal requirements to remain consistent with other podiatric medical boards and the other healthcare boards in California."

Prior Related Legislation. SB 1236 (Price), Chapter 332, Statutes of 2012, among numerous other changes related to Senate Committee on Business and Professions Sunset Review recommendations, deleted a redundant reference to the Administrative Procedures Act in the section amended under this bill.

SB 1955 (Figueroa), Chapter 1150, Statutes of 2002, among numerous other changes related to the JLSRC Sunset Review recommendations, added the National Board of Podiatric Medical Examiners competency pathway and amended the course of study competency pathway by replacing the requirement that the course be at least four weeks duration with the requirement that the course be an "extended" course.

SB 1981 (Greene), Chapter 736, Statutes of 1998, among numerous other changes related to the JLSRC Sunset Review Hearing recommendations, first added the continuing competence requirements being deleted under this bill.

ARGUMENTS IN SUPPORT:

The *California Podiatric Medical Association* (co-sponsor) writes in support, "When these requirements became effective in 1999, some DPMs were surgically trained, and others were not, dependent upon their year of graduation from podiatric medical school. At the time, the Board adopted additional renewal requirements beyond those that still exist today. However, with the advancements in podiatric training and education, these concerns from 25 years ago are no longer present. Efforts to advance podiatric training and education include a standardization of podiatric residencies which now require mandatory, three-year, comprehensive programs and that all DPMs are surgically trained. The current training of DPMs is comparable to that of medicine's 4-4-3 model – four years of undergraduate education, followed by four years of podiatric medical school and three years of residency training, with an optional fellowship year."

ARGUMENTS IN OPPOSITION:

None on file

REGISTERED SUPPORT:

California Board of Podiatric Medicine (sponsor)
California Podiatric Medical Association (co-sponsor)

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 834 (Irwin) – As Introduced February 14, 2023

SUBJECT: Physicians and surgeons and doctors of podiatric medicine: professional partnerships.

SUMMARY: Authorizes doctors of podiatric medicine (DPMs) to own an equal or majority interest in a professional partnership with physicians.

EXISTING LAW:

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

2) Prohibits the practice of medicine, including using drugs or devices, severing or penetrating tissue, or using any other method in the treatment of diseases, injuries, deformities, or other physical and mental conditions without a physician and surgeon or osteopathic physician and surgeon license, unless authorized by a license granted under some other law. (BPC §§ 2051, 2052, 2453)

3) Defines "podiatric medicine" as the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the ankle and tendons that insert into the foot, and the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot. (BPC § 2472(b))

4) Authorizes the practice of podiatric medicine if licensed as a DPM. (BPC § 2472(a))

5) Establishes the general rules and requirements related to business partnerships under the Uniform Partnership Act of 1994. (Corporations Code (Corp) §§16100-16962)

6) Defines "partnership" as an association of two or more persons to carry on a business for profit as co-owners. (CORP § 16101(a)(9))

7) Defines "partnership agreement" as the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement. (CORP § 16101(a)(10))

8) Specifies that relations among the partners and between the partners and the partnership are governed by the partnership agreement, except as prohibited under the Uniform Partnership Act of 1994. (CORP § 16103)

9) Specifies that physicians and surgeons may only form partnerships with other physicians and surgeons and DPMs may only form partnerships with other DPMs, except as specified. (BPC § 2416)

10) Authorizes partnerships that include both physicians and surgeons and DPMs if both of the following conditions are satisfied:

    a) A majority of the partners and partnership interests in the professional partnership are physicians and surgeons or osteopathic physicians and surgeons. (BPC § 2416(a))

    b) Partners who are not a physician and surgeon do not practice in the partnership or vote on partnership matters related to the practice of medicine that are outside the partner's scope of practice. All partners may vote on general administrative, management, and business matters. (BPC § 2416(b))

THIS BILL:

1) Deletes the following two limitations on joint DPM and physician partnerships:

    a) That the majority of the partners in the partnership are physicians and that the majority of the partnership interest belongs to physicians.

    b) That a non-physician partner may not practice medicine in the partnership or vote on partnership matters related to the practice of medicine to the extent either of those is outside the partner's scope of practice.

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

COMMENTS:

Purpose. This bill is sponsored by the *California Podiatric Medical Association*. According to the author, "Medical practices often bring together different specialties to provide more holistic care to patients. In regulating how these partnerships and businesses are formed, safeguards have been put in place to ensure non-medically trained partners do not influence the practice, including how patient care is delivered. Despite their extensive training, Doctors of Podiatric Medicine are unfairly prevented from partnering with physicians on an equal footing when they agree to form a practice. [This bill] removes this impediment and allows podiatrists and physicians to have equal ownership in medical practices."

Background. DPMs are licensed healthcare providers who practice medicine on the human foot, including the ankle and tendons that insert into the foot. They may also provide nonsurgical and limited surgical treatment of the muscles and tendons of the leg governing the functions of the foot, including wound care for ulcers. This aspect of medicine is known as podiatric medicine. Because podiatric health conditions can be complex, or be the result of a broader health condition, they will work closely with physicians in the event treatment is needed beyond the DPM scope of practice.

DPM and Physician Professional Partnerships. Before 1995, the Medical Practice Act prohibited DPMs and physicians from forming partnerships together—they were only authorized to provide services as DPMs in a partnership or as physicians in a partnership. As a result, podiatrists and physicians could not form partnerships that focused on podiatry but also provided ancillary medical services, even minor ones. The podiatry partnership would have to refer the patient to a physician.

The only way to provide this type of service together was to form a physician-owned medical corporation. At the time, there was concern that joint partnerships could result in non-physician control of a physician's practice. In general, the argument against that control, which is often called the "corporate practice of medicine," is that a healthcare business controlled by non-physicians could overrule physician judgment and expertise in favor of business interests, such as efficiency or profit, resulting in a lower quality of care.

Professional corporations currently avoid that concern because of the limitations under the Moscone-Knox Professional Corporations Act. The act only authorizes professional corporations to render services within a single profession, such as medicine or podiatry, and requires the majority of the shares to be owned by licensees of the principal profession.

As a result, podiatrists can provide podiatric medicine within a medical corporation that focuses on podiatry, but the corporation must still be majority owned by physicians. And, while physicians can also provide services as part of a podiatric medical corporation, they would not technically be allowed to provide any services outside of the scope of podiatric medicine.

In 1995, the Medical Board of California sponsored legislation allowing for physicians and DPMs to form partnerships together, but included the limitation that the majority of the partners be physicians and prohibited DPMs from voting on matters outside of their scope of practice. In the committee analysis at the time, the limitations were noted as being included to address concerns around the lay control of a physician's practice.

This bill would remove those limitations. The change would allow for DPMs and physicians to form partnerships that have DPM majorities.

Prior Related Legislation. SB 609 (Rosenthal), Chapter 708, Statutes of 1995, among other things, authorized physicians and podiatrists to form partnerships together and established the restrictions on podiatry partners this bill would delete.

SB 1558 (Keene), Chapter 1313, Statutes of 1980, revised and recast the Medical Practice Act, including the limitation against physicians and DPMs forming partnerships together.

ARGUMENTS IN SUPPORT:

The *California Podiatric Medical Association* (sponsor) writes in support:

> Current law specifically authorizes MD/DO's and DPM's to create partnerships. However, despite the advancements in the podiatric profession, the law further prohibits DPM's from having more than 49% ownership of that partnership. This means a DPM can never be an equal partner, even if both parties agree that is the best interest of the practice. For example, if a group of three podiatric surgeons wanted to open a wound care center and partner with a vascular surgeon, they would need to give the vascular surgeon 51% ownership of the center to comply with existing law, even if the services provided were primarily podiatric.
>
> This ownership restriction limits the DPM's involvement in key administrative decisions, including staffing, purchasing real estate, insurance credentialing, and acquiring business loans, and has served as a deterrent for DPM's to enter such arrangements.

> This inequity disincentives the formation of these partnerships which only disrupts the continuity of care. If DPM's are deterred from partnering with MD/DO's, that partnership would not benefit from the many services they specialize (wound care, diabetic foot ulcer treatment, etc.)….
>
> Once licensed, DPMs can independently diagnose and treat human ailments within their scope of practice. This scope includes performing surgery in ambulatory and hospital settings, taking x-rays, writing prescriptions, and ordering diagnostic studies. Other than the fact that podiatric medicine has a scope of practice that is defined by law, managing a podiatric practice is no different from managing any other MD or DO surgical specialty practice. Anything that impacts medical practice will always impact the podiatric practice in the same way. Therefore, specifically restricting the size of the ownership interest in a professional partnership between a physician and surgeon and a podiatrist no longer makes sense.

ARGUMENTS IN OPPOSITION:

None on file

IMPLEMENTATION ISSUES:

Orphan Reference to Osteopathic Physicians and Surgeons. In 1995, a reference to osteopathic physicians and surgeons was added to the code section this bill is amending. While the current version of this bill deletes that reference, the amendments at the end of this analysis add it back. There is no other reference to osteopathic physicians and surgeons in the code section, and the Medical Practice Act treats osteopathic physicians and surgeons the same as non-osteopathic physicians and surgeons. If this bill passes this committee, the author may wish to amend the bill to include osteopathic physicians and surgeons where they are left out or delete the lone reference for consistency.

AMENDMENTS:

To (1) address concerns raised by stakeholders about the corporate practice of medicine by non-physicians or non-DPMs and the lack of clarity around scope of practice and (2) update an erroneous cross-reference to a repealed Corporations Code section, the bill should be amended as follows:

> **2416.** ~~(a)~~ Physicians and surgeons and doctors of podiatric medicine may conduct their professional practices in a partnership or group of physicians and surgeons or a partnership or group of doctors of podiatric medicine, respectively.
>
> ~~(b)~~ Physicians and surgeons and doctors of podiatric medicine may establish a professional partnership that includes both physicians and surgeons and doctors of podiatric ~~medicine.~~ *medicine, if both of the following conditions are satisfied:*
>
> *(a) A majority of the partners and partnership interests in the professional partnership are physicians and surgeons, osteopathic physicians and surgeons, or doctors of podiatric medicine.*

(b) Notwithstanding Chapter 5 (commencing with Section 16100) of Title 2 of the Corporations Code, a partner who is not a physician and surgeon or a doctor of podiatric medicine, shall not practice in the partnership or vote on partnership matters related to the practice of medicine, or the practice of podiatric medicine, respectively, that are outside the partner's scope of practice. All partners may vote on general administrative, management, and business matters.

REGISTERED SUPPORT:

California Podiatric Medical Association (sponsor)

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 878 (Pellerin) – As Introduced February 14, 2023

SUBJECT: Business filings: fictitious business names.

SUMMARY: Authorizes a fictitious business name registrant to provide their business mailing address in lieu of their residence (home) address for purposes of filing a fictitious business name statement.

EXISTING LAW:

1) Provides for the regulation of individuals, partnerships, corporations, and Limited Liability Companies doing business under fictitious business names. (Business and Professions Committee (BPC) §§ 17900-17930)

2) Specifies that the filing of a fictitious business name certificate is designed to make available to the public the identities of persons doing business under the fictitious name. (BPC § 17900(a))

3) Defines "fictitious business name" as:

   a) For individuals, a name that does not include the surname of the individual or a name that suggests the existence of additional owners.

   b) For partnerships or other associations, a name that does not include the surname of each general partner or a name that suggests the existence of additional owners.

   c) For corporations, any name other than the corporate name stated in its articles of incorporation.

   d) For limited partnerships, any name other than the name of the limited partnership on file with the California Secretary of State.

   e) For limited liability companies, any name other than the name stated in its articles of organization, and in the case of a foreign limited liability company, any name other than the name of the limited liability company as on file with California secretary of state.

   (BPC § 17900(b))

4) Defines "registrant" as a person or entity who is filing or has filed a fictitious business name statement, and who is the legal owner of the business. (BPC § 17903)

5) Requires a person that regularly transacts business in this state for profit under a fictitious business name to file a fictitious business name statement as specified (BPC § 17910)

6) Requires a fictitious business name statement to contain specified information, including the following:

a) The fictitious business name or names,

b) The street address and county of the registrant's principal place of business,

c) The residence address of the individual, if the registrant is an individual; both parties to the marriage, if the registrants are a married couple; each general partner, if the registrant is a general partnership, copartnership, joint venture, or limited liability partnership; each trustee, if the registrant is a trust; each domestic partner if the registrants are state or local registered domestic partners.

d) The nature of the business, and

e) The date on which the registrant first commenced to transact business under the fictitious business name or names listed.

(BPC § 17913(a) and (b))

7) Requires fictitious business name statements to be filed with the clerk of the county in the principal place of business or, if the place of business is not in this state, with the Clerk of Sacramento County. (BPC § 17915)

8) Specifies that no state or local agency shall post the home address or telephone number of any elected or appointed official on the internet without first obtaining the written permission of that individual. (Government (GOV) Code § 7928.210)

9) Specifies that "elected or appointed official" includes, but is not limited to, all of the following: a state constitutional officer; a Member of the Legislature; a judge or court commissioner; a district attorney, a public defender, a member of a city council; a member of a board of supervisors; an appointee of the Governor; an appointee of the Legislature; a mayor; a city attorney; a police chief or sheriff, a public safety official; a state administrative law judge; a federal judge or federal defender; and a member of the United States Congress or appointee of the President of the United States. (GOV § 7920.500)

THIS BILL:

1) Replaces the requirement to provide the registrant's residence address with a requirement to provide the business' mailing address.

2) Makes various non-substantive and conforming changes.

3) Deletes outdated operational language.

FISCAL EFFECT: Unknown. This bill has been keyed non-fiscal by Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the *California Association of Clerks and Election Officials*. According to the author, this bill "removes the registrant's home residence address as a required field for filing and publishing a Fictitious Business Name (FBN) Statement, and instead requires a mailing address for the business if it differs from the business address. Removing the owner's home address allows for the County Clerk to remain compliant with [personal identifying

information] requirements and eliminates this personal information from public records that may cause concern for privacy and safety of the registrants."

Background.

Fictitious Business Names. An individual or business is required to file a fictitious business name statement (also known as a "Doing Business As" (DBA) or "Trade Name") when the business name does not include each business owner(s) last name or suggests that there are additional owners (e.g., "& Associates).[1] Filing a fictitious business name statement ensures that the public knows the identity of the business owner(s). It also creates a rebuttable presumption that the registrant has the exclusive right to use a certain trade name. Fictitious business name statements are required to be filed with the Registrar-Recorder/County Clerk's office in the county where the business will be located and the filing fee varies depending on the city or county where it is filed. A fictitious business name statement is generally required to be filed within 40 days of commencing business in this state. Within 30 days of filing a fictitious business name statement, registrants must also publish the statement in a local newspaper of general circulation near the principal place of business once a week for four consecutive weeks. Many cities and counties offer a fictitious business name search on their websites. The filing is valid for five years or until the fact in the statement change, whichever is earlier.

Registrants that are individuals, married, domestic partners, trusts, or business partnerships are required to provide their residence address. This bill would eliminate that requirement and instead require those registrants to provide a business mailing address if it differs from the business physical address.

Address Protection for Public Officials and Law Enforcement. Although a majority of registrants are requied to provide a residence address when filing a fictitious business name statement, California law prohibits state and local agencies from posting elected or appointed officials' home addresses or phone numbers on the internet without first obtaining written permission from the individual. Elected and appointed officials included: judges and court commissioners; district attorneys; public defenders; city council members; county supervisors; appointees of the President, Governor, or Legislature; mayors; city attorneys; police chiefs and sheriffs; public safety officials, state administrative law judges, federal judges; federal public defenders; and members of the U.S. Congress. The sponsor of this bill, the California Association of Clerks and Elections Officials, has indicated that this bill will help ensure that counties do not run afoul of this law when they post a fictitious business name statement online whose registrant happens to also be an elected or appointed official.

Prior Related Legislation.

AB 716 (Chen) Chapter 15, Statutes of 2019, authorized a county clerk to accept an electronic acknowledgment verifying the identity of the registrant using a remote identity proofing process, as specified.

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[1] State of California Franchise Tax Board. (n.d.). *Guide to DBAS November 2019 Tax News*. Franchise Tax Board. Retrieved March 23, 2023, from https://www.ftb.ca.gov/about-ftb/newsroom/tax-news/november-2019/guide-to-dbas.html

ARGUMENTS IN SUPPORT:

According to the *California Association of Clerks & Election Officials:*

> Current law and process presents a problem relating to the protection of Personal Identifiable Information (PII) requirements that suggest home addresses should not be made a part of public records by appearing on any public-facing Internet Web site, Web application, or digital application, including a social network or publication. Requiring business owners to publicize their residence address poses security and safety risks for the business owners as these FBN records are made a part of the public record in County Clerks offices.
>
> [This bill] removes the registrant's home residence address as a required field for filing and publishing a Fictitious Business Name (FBN) Statement, and instead requires a mailing address for the business if it differs from the business address. Removing the owner's home address allows for the County Clerk to remain compliant with PII requirements and eliminates this personal information from public records that may cause concern for safety of the registrants. As a result, [this bill] will provide more privacy and security to the public regarding home addresses and searchability.

REGISTERED SUPPORT:

California Association of Clerks & Election Officials

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 883 Mathis – As Amended March 23, 2023

SUBJECT: Business licenses: United States Department of Defense SkillBridge program.

SUMMARY: Expands the requirement that licensing boards under the Department of Consumer Affairs (DCA) must expedite the licensing application from military veterans to include applications from active duty members of a regular component of the United States Armed Forces who are enrolled in the United States Department of Defense SkillBridge program.

EXISTING LAW:

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

2) Provides for the regulation and licensure of various professions and vocations by boards, bureaus, and other entities within the DCA. (BPC §§ 100-144.5)

3) Defines "board," as used in the BPC, as the board in which the administration of the provision is vested, and unless otherwise expressly provided, includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency." (BPC § 22)

4) Requires a DCA board to expedite the initial licensure process for an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the Armed Forces of the United States and was honorably discharged. (BPC § 115.4)

5) Authorizes the U.S. Secretary of Defense or Secretary of Homeland Security to carry out one or more programs to provide eligible members of the armed forces under the jurisdiction of the Secretary with job training and employment skills training, including apprenticeship programs, to help prepare such members for employment in the civilian sector. (Title 10 United States Code (U.C.S.) § 1143(e)(1))

6) Specifies that a member of the armed forces is an eligible member for a program established by one of the Secretaries if the member meets both of the following:

    a) Has completed at least 180 days on active duty in the armed forces. (10 U.S.C. § 1143(e)(2)(A))

    b) Is expected to be discharged or released from active duty in the armed forces within 180 days of the date of commencement of participation in such a program. (10 U.S.C. § 1143(e)(2)(B))

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

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author, "The transition from active military duty to a civilian life is a stressful and isolating time for many service members, and as members of the legislature it is our responsibility to do all that we can to make this process as easy as possible. [This bill] will require state agencies to expedite applications of those who are enrolled in the Department of Defense's SkillBridge program, thus aligning existing state policy to expedite veteran applications and ensuring that every veteran is provided with the support, information and tools necessary to succeed."

Background. In general, professional licensing programs serve to protect the public from trades or professions that may carry a higher risk of harm. Those programs require an active license to practice, which demonstrates a minimum level of training, competency, and fitness to practice. As a result, those who wish to practice in a licensed profession must undergo an application process. However, the process of applying for a new license can be lengthy, expensive, or even confusing.

That process may be worse for veterans. According to the U.S. Department of Veteran Affairs, preparing for and applying for jobs are common challenges that hinder re-adjustment to civilian life. A veteran who had a career in the military may have never looked or applied for a civilian job, or they may be returning to a civilian job but need time adjusting or catching up on qualifications for the position.

To assist with these burdens, existing law provides for several accommodations for veteran license applicants. Many licensing programs are within the DCA, and DCA boards are required to ask about the military status of each of their applicants so that military experience may potentially be applied toward licensure training requirements. DCA boards are also required to expedite licensure for military veterans as well as the spouses and partners of active duty military to reduce license processing wait times.

SkillBridge. This bill would extend the expedited licensure benefit to applicants who are active duty members of a regular component of the U.S. Armed Forces enrolled in the U.S. Department of Defense (DOD) SkillBridge program. Regular components currently include Army, Navy, Air Force, Marine Corps, and Space Force.

SkillBridge is an employment assistance program that provides work experience opportunities to service members transitioning to the civilian sector. Enrollees must be within 180 days of discharge, have had at least 180 continuous days of active service, and obtain written authorization from their unit commander. If approved, members can be granted up to 180 days of permissive duty to participate full-time in the program.

The SkillBridge opportunities are offered through partner organizations that have been authorized by the DOD through an official memorandum of understanding to work with each of the applicable military branches and respective installation commanders to develop SkillBridge training programs for their personnel. To be approved by the DOD, partnering organizations must submit a detailed training plan that specifies, among other things, specific learning objectives, instructor qualifications, and descriptions of assessments.

The DOD also specifies that "SkillBridge opportunities must provide eligible Service members with a job training and career development experience to acquire employment skills, knowledge, or abilities to assist them with job opportunities in the civilian sector. The opportunities must offer a high probability of post-service employment with the provider or any other employer and offer enrollment at no cost or minimal cost to eligible Service members."

The four SkillBridge opportunity types are defined as:

1) Apprenticeship/Pre-Apprenticeship programs*:* A combination of on-the-job-training and related classroom instruction under the supervision of a trade official. The programs are jointly sponsored by employer and union groups, individual employers, or employer associations. They must meet one of the following:

   a) Be registered with the U.S. Department of Labor (DOL) or registered in the state in which it operates.

   b) Be an "Education and Job Training Program" approved by the U.S. Department of Veterans Affairs (VA).

   c) Be a certificate program accredited by the American National Standards Institute (ANSI).

   d) Be accredited by an accrediting agency recognized by the U.S. Department of Education (DOE).

   Apprenticeships programs must also meet all of the following:

   a) Be offered by an industry-related organization that is a sponsor of or oversees the sponsorship of a registered apprenticeship program related to the training being offered.

   b) Documented in a memorandum of understanding that establishes the parameters for cooperative support between the local installation and the local program sponsor.

   c) Have the potential to provide post-service employment.

2) Employment Skills Training (EST) or On the Job Training (OJT): Employee training and tasks learned at a place of work while performing the actual job. OJT occurs in the particular working situation that an employee can expect to work in daily. An OJT or employment skills training program must have at least one of the following:

   a) Be an "Education and Job Training Program" approved by the U.S. Department of VA.

   b) Be accredited by an accrediting agency recognized by the U.S. DOE.

   c) Be a certificate program accredited by the ANSI.

   d) Be approved by the National Association of State Approving Agencies.

   e) Be a training program accredited by the Council on Occupational Education.

3) Internships: A system of on-the-job-training offered by a provider to eligible Service members to develop jobs skills and employment skills training that assists them to gain employment in the civilian sector. Offers a type of work experience for entry-level job seekers.

4) Job shadowing: Normally is performed in one day by observing the day-to-day operations of the employer.

Applicability to Licensure. To qualify for a license, applicants must be able to demonstrate the satisfaction of any applicable education, experience, and examination requirements at the time of application. Applicants must also pass a background check. Incomplete applications are typically put on hold until the applicant can remedy any deficiencies.

Because the SkillBridge program is job experience-focused, it is unclear whether it would help enrollees meet the qualifications for licenses that require a specific type of education or passage of an examination, such as a nursing license, unless those requirements are completed ahead of time. As a result, those enrollees may not benefit from an expedited application.

To the extent an enrollee does qualify for a license, or is close to qualifying through experience gained in the program, this bill would allow them to have their license reviewed sooner.

Reserve Components. Currently, SkillBridge is also available to the National Guard and the Reserves. However, National Guard and Reserve members generally live in-state and hold civilian jobs, so there may be no employment transition that an expedited license process would assist with. Therefore, the author accepted amendments to limit the new benefit under the bill to active duty members of the regular components of the armed forces.

Prior Related Legislation. AB 225 (Gray, et al.) of 2021, which died pending a hearing in the Senate Business, Professions and Economic Development Committee, would have expanded the DCA temporary license program for spouses and registered domestic partners of active-duty military members to include active duty members of the U.S. Armed Forces with active orders for separation within 90 days under other than dishonorable conditions.

AB 186 (Maienschein), Chapter 640, Statutes of 2014, established the DCA temporary license program for spouses and registered domestic partners of active-duty military members.

SB 1226 (Correa), Chapter 657, Statutes of 2014, established the requirement that DCA boards expedite applications from honorable discharged veterans.

ARGUMENTS IN SUPPORT:

The *California Association of Realtors* writes in support:

> SkillBridge has countless industry partners in a variety of fields, including real estate, with established military recruitment and transition programs because of the expertise, dedication, and service our veterans bring. Real estate is a field where there is no substitute for on the ground training and this bill also accomplishes the goal of real-life experience for these future licensees.

For those servicemembers who are transitioning into fields requiring licensure, like real estate, expediting their license applications will directly and positively impact their transition and hasten their ability to earn an income and support their families. Unemployment is disproportionately high within the veteran community, but this bill will help eliminate unnecessary delays and roadblocks. They can hit the ground running. At a time when labor shortages and demographic changes challenge California's workforce and economic outlook, the state cannot afford to lose workers to other states, especially our skilled and accomplished service men and women.

ARGUMENTS IN OPPOSITION:

None on file

REGISTERED SUPPORT:

California Association of Realtors

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 993 (Blanca Rubio) – As Introduced February 15, 2023

SUBJECT: Cannabis Task Force.

SUMMARY: Expands the membership of an existing task force on state and local regulation of commercial cannabis activity to include representatives of the Civil Rights Department and the Department of Industrial Relations.

EXISTING LAW:

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

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

3) Requires the DCC to convene an advisory committee to advise the department on the development of standards and regulations pursuant to MAUCRSA, which is required to include representatives of labor organizations. (BPC § 26014)

4) Establishes grounds for disciplinary action against cannabis licensees, including knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee. (BPC § 26030)

5) Provides the DCC with authority for issuing twenty total types of cannabis licenses including subtypes for cultivation, manufacturing, testing, retail, distribution, and microbusiness; requires each licensee except for testing laboratories to clearly designate whether their license is for adult-use or medicinal cannabis. (BPC § 26050)

6) Requires an applicant for a license within the cannabis industry to enter into a labor peace agreement within 60 days of employing 20 employees, and requires applicants already employing 20 or more employees to provide a notarized statement that they will or already have entered into a labor peace agreement. (BPC § 26051.5)

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

8) Requires the DCC to establish minimum security and transportation safety requirements for the commercial distribution and delivery of cannabis and cannabis products. (BPC § 26070)

9) Expresses that state cannabis laws shall not be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate cannabis businesses. (BPC § 26200)

10) Provides that any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under MAUCRSA statewide, but that a local jurisdiction may establish additional standards, requirements, and regulations. (BPC § 26201)

11) Establishes a task force to promote communication between state and local entities engaged in the regulation of commercial cannabis activity and facilitate cooperation to enforce applicable state and local laws, composed of representatives from all of the following:

    a) The Department of Cannabis Control.

    b) The California Department of Tax and Fee Administration.

    c) The Department of Fish and Wildlife.

    d) The State Water Resources Control Board.

    e) The Department of the California Highway Patrol.

    f) The Labor and Workforce Development Agency.

    g) The Department of Justice.

    h) Any local jurisdictions regulating commercial cannabis activity.

    (BPC § 26203)

THIS BILL:

1) Adds a representative of the Civil Rights Department to the task force on state and local regulation of commercial cannabis activity.

2) Adds a representative of the Department of Industrial Relations to the task force on state and local regulation of commercial cannabis activity.

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

COMMENTS:

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

> "California must address labor inequities, especially within the newly legalized cannabis industry. Until a labor trafficking unit is established in California, adding the Civil Rights Department and Department of Industrial Relations to this task force will better ensure that coordination is occurring for labor enforcement on the cannabis industry."

Background.

Brief History of Cannabis Regulation in California. Consumption of cannabis was first made lawful in California in 1996 when voters approved Proposition 215, or the Compassionate Use Act. Proposition 215 protected qualified patients and caregivers from prosecution relating to the possession and cultivation of cannabis for medicinal purposes, if recommended by a physician. This regulatory scheme was further refined by SB 420 (Vasconcellos) in 2003, which established the state's Medical Marijuana Program. After several years of lawful cannabis cultivation and consumption under state law, a lack of a uniform regulatory framework led to persistent problems across the state. Cannabis's continued illegality under the federal Controlled Substances Act, which classifies cannabis as a Schedule I drug ineligible for prescription, generated periodic enforcement activities by the United States Department of Justice. Threat of action by the federal government created apprehension within California's cannabis community.

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

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

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

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

Worker Exploitation in the Cannabis Industry. In late 2022, the *Los Angeles Times* began publishing a series of investigative articles under the title "Legal Weed, Broken Promises." One article, titled "Dying for your high: The untold exploitation and misery in America's weed industry," highlighted a series of affective anecdotes in which workers at both licensed and illicit cannabis enterprises were subjected to inhumane conditions or denied labor rights. The article reported that at least 35 workers had died on cannabis farms in a five-year span through 2021, and that some workers had gone unpaid for years.[1]

Much of what the *Times* article reported took place in unlicensed and illegal cannabis operations. A report published by the Reason Foundation estimates that as much as two-thirds of cannabis sales in California take place on the black market, which is consistent with the widespread consensus that illicit cannabis has continued to proliferate notwithstanding the enactment of MAUCRSA. As documented in the *Times* reporting, the illegal cultivation and sale of cannabis is often part of broader criminal activity, frequently conducted by large cartels and often in combination with other crimes such as human trafficking.

The DCC is empowered to take action against both licensees and unlicensed persons for violations of MAUCRSA. However, it is unlikely that the DCC is the appropriate agency to coordinate or carry out enforcement actions against bad actors whose transgressions rise to the level of labor trafficking. In addition to the Office of the Attorney General and other law enforcement agencies, the Civil Rights Department within the Business, Consumer Services, and Housing Agency has been identified as a state entity that is better equipped to take action against perpetrators of human trafficking, including in circumstances similar to those described in the *Times* series.

This bill would add the Civil Rights Department to the list of agencies that compose a task force on state and local regulation of commercial cannabis activity. This task force was established through the 2022-23 Budget process to promote communication between state and local entities engaged in the regulation of commercial cannabis activity and facilitate cooperation to enforce applicable state and local laws. The author contends that inclusion of the Civil Rights Department would enhance the state's response to cannabis operators whose crimes go beyond violations of MAUCRSA and extend to human trafficking.

In addition, this bill would add a representative of the Department of Industrial Relations to the task force on state and local regulation of commercial cannabis activity. The *Times* series reported that "four California Department of Cannabis Control employees said they are often disturbed by the labor conditions they see and feel frustrated that there is nothing in cannabis regulations that deals with those situations." Instead, the DCC has pointed out that the Department of Industrial Relations is the appropriate entity to resolve issues such as wage theft or workplace violations. While these violations may take place on the premises of a licensed cannabis business, it is not within the DCC's purview to engage in investigation or enforcement of those offenses.

The author believes that the inclusion of the Department of Industrial Relations in the interagency task force will ensure that there is no enforcement gap resulting from divergent jurisdictions between agencies tasked with enforcing laws cannabis business must follow.

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[1] St. John, Paige and Gerber, Marisa. "Dying for your high: The untold exploitation and misery in America's weed industry." *Los Angeles Times*, December 22, 2022.

Current Related Legislation. AB 1424 (Jones-Sawyer) would prohibit a cannabis delivery employee from being laid off, discharged, or subject to an adverse employment action for refusing to perform work in violation of prescribed safety standards or work that would create a real and apparent hazard to the employee or fellow employees. *This bill is pending in the Assembly Labor Committee.*

Prior Related Legislation. AB 195 (Committee on Budget, Chapter 56, Statutes of 2022) established the task force on state and local regulation of commercial cannabis activity.

AB 1291 (Jones-Sawyer, Chapter 826, Statutes of 2019) requires an applicant for a cannabis license who currently employs fewer than 20 employees to provide a statement that the applicant will enter into a labor peace agreement within 60 days of employing 20 employees.

IMPLEMENTATION ISSUES:

This bill would add the Department of Industrial Relations to the task force on state and local regulation of commercial cannabis activity. However, this task force already includes a representative of the Labor and Workforce Development Agency, which is the agency that oversees the Department of Industrial Relations as well as the Agricultural Labor Relations Board, Employment Development Department, and other related entities. The author may wish to explore whether including both the Department of Industrial Relations and the Labor and Workforce Development Agency could be redundant.

REGISTERED SUPPORT:

None on file.

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1136 (Haney) – As Introduced February 15, 2023

SUBJECT: State Athletic Commission: mixed martial arts: pension fund.

SUMMARY: Requires the California State Athletic Commission to establish a pension plan for licensed martial artists who compete in mixed martial arts (MMA) contests.

EXISTING LAW:

1) Regulates and licenses combat sports under the Boxing Act, which is also called the State Athletic Commission Act. (Business and Professions Code (BPC) §§ 18600-18887)

2) Establishes the State Athletic Commission within the Department of Consumer Affairs (DCA) to administer and enforce the Boxing Act. (BPC § 18602)

3) Defines "club" and "promoter" synonymously to mean a corporation, partnership, association, individual, or other organization which conducts, holds, or gives a boxing or martial arts contest, match, or exhibition. (BPC § 18622)

4) Defines a professional or amateur boxer or martial arts fighter as one who engages in a boxing or martial arts contest and who possesses fundamental skills in their respective sport. (BPC § 18623)

5) Defines "contest" and "match" synonymously to mean professional and amateur boxing, kickboxing, and martial arts exhibitions, and mean a fight, prizefight, boxing contest, pugilistic contest, kickboxing contest, martial arts contest, or sparring match, between two or more persons, where full contact is used or intended that may result or is intended to result in physical harm to the opponent. (BPC § 18625(a))

6) Defines an amateur contest or match to include a contest or match where full contact is used, even if unintentionally. (BPC § 18625(b)(1))

7) Provides that an amateur contest or match does not include light contact karate, tae kwon do, judo, or any other light contact martial arts as approved by the commission and recognized by the International Olympic Committee as an Olympic sport. (BPC § 18625(b)(2))

8) Defines "martial arts" as any form of karate, kung fu, tae kwon do, kickboxing or any combination of full contact martial arts, including mixed martial arts, or self-defense conducted on a full contact basis where a weapon is not used. (BPC §18627(a))

9) Defines "kickboxing" as any form of boxing in which blows are delivered with the hand and any part of the leg below the hip, including the foot. (BPC § 18627(b))

10) Defines "full contact" as the use of physical force in a martial arts contest that may result or is intended to result in physical harm to the opponent, including any contact that does not meet the definition of light contact or noncontact. (BPC § 18627(c))

11) Defines "manager" as any person who does any of the following:

a) By contract, agreement, or other arrangement with any person, undertakes or has undertaken to represent in any way the interest of any professional boxer, or martial arts fighter in procuring, or with respect to the arrangement or conduct of, any professional contest in which the boxer or fighter is to participate as a contestant; except that the term "manager" shall not be construed to mean any attorney licensed to practice in this state whose participation in these activities is restricted to representing the legal interests of a professional boxer or fighter as a client. Otherwise, an attorney shall be licensed as a manager in order to engage in any of the activities described in this section. (BPC § 18628(a))

b) Directs or controls the professional boxing or martial arts activities of any professional boxer or martial arts fighter. (BPC § 18628(b))

c) Receives or is entitled to receive more than 10 percent of the gross purse of any professional boxer or martial arts fighter for any services relating to such person's participation in a professional contest. (BPC § 18628(c))

d) Is an officer, director, shareholder, or member of any corporation or organization which receives, or is entitled to receive more than 10 percent of the gross purse of any professional boxer or martial arts fighter for any services relating to the person's participation in a professional contest. (BPC § 18628(d))

12) Specifies the following related to boxer pension benefits:

a) Requires the commission to establish a pension plan for professional boxers who engage in boxing contests in this state. (BPC § 18881(a))

b) Requires the commission to establish the method by which the pension plan will be financed, including those who must contribute to the financing of the pension plan. The method of financing the pension plan may include, but is not limited to, assessments on tickets and contributions by boxers, managers, promoters, or any one or more of these persons, in an amount sufficient to finance the pension plan, as specified. (BPC § 18881(b))

c) Requires any pension plan established by the commission to be actuarially sound. (BPC § 18881(c))

d) Requires a promoter to pay the commission all amounts scheduled for contribution to the pension plan at the time of payment of the post-contest fees required under the Boxing Act and requires, if the commission, in its discretion, requires pursuant to the pension plan, that contributions to the pension plan be made by the boxer and the manager, those contributions to be made at the time and in the manner prescribed by the commission. (BPC § 18882(a))

13) Specifies the following related to the pension funds:

a) Creates the Boxers' Pension Fund, requires contributions to finance the pension plan to be deposited in the State Treasury and credited to the fund, and continuously appropriates

all moneys in the Boxers' Pension Fund to be used exclusively for the purposes and administration of the pension plan. (BPC § 18882(b))

b) Specifies that the Boxers' Pension Fund is a retirement fund and no moneys within it may be deposited or transferred to the General Fund. (BPC § 18882(c))

c) Specifies that the commission has exclusive control of all funds in the Boxers' Pension Fund and prohibits transfers or disbursements in any amount from the fund except upon the authorization of the commission and for the purpose and administration of the pension plan. (BPC § 18882(d))

d) Requires the commission or its designee to invest the money contained in the Boxers' Pension Fund according to the same standard of care as a trustee, specifies that the commission has exclusive control over the investment of all moneys in the Boxers' Pension Fund, and authorizes the commission to invest the moneys in the fund through the purchase, holding, or sale of any investment, financial instrument, or financial transaction that the commission in its informed opinion determines is prudent, except as otherwise prohibited or restricted by law. (BPC § 18882(e))

e) Limits the administrative costs associated with investing, managing, and distributing the Boxers' Pension Fund to be limited to no more than 2 percent of the corpus of the fund, requires diligence to be exercised by administrators in order to lower the fund's expense ratio as far below 2 percent as feasible and appropriate, and requires the commission to report to the Legislature on the impact of this limitation during the next regularly scheduled sunset review. (BPC § 18882(f))

f) Allows a promoter to add to the price of each ticket sold for a professional boxing contest an amount specifically designated on the ticket for contribution as a donation to the pension plan, specifies that the additional amount is not subject to the admissions tax or any other deductions, specifies that this does not authorize the addition of amounts less than all the tickets sold for the professional boxing contest involved, and requires the promoter to pay additional contributions collected in accordance with the pension plan. (BPC § 18884(a))

g) Specifies that any additional contributions received as an added price may not be considered to offset any of the contributions required by the commission under the pension plan. (BPC § 18884(b))

h) Authorizes, in addition to any other form in which retirement benefits may be distributed under the pension plan, the commission to, in lieu of a pension, award to a covered boxer a medical early retirement benefit in the amount contained in the covered boxers' pension plan account at the time the commission makes this award and in the manner provided in the regulations governing the boxers' pension plan. (BPC § 18887)

THIS BILL:

1) Makes findings and declarations regarding the necessity of a pension plan for martial artists.

2) Defines “martial artist” shall mean a licensed professional mixed martial artist, licensed professional kickboxer, licensed professional Muay Thai fighter, or athlete licensed by the commission other than a boxer.

3) Specifies the following related to the pension plan:

   a) Requires the commission to establish a pension plan for martial artists who engage in mixed martial arts contests in this state.

   b) Requires the commission to establish the method by which the pension plan will be financed, including those who will contribute to the financing of the pension plan.

   c) Specifies that the method of financing the pension plan may include, but is not limited to, assessments on tickets, revenue through the sale of sport paraphernalia and souvenirs, and contributions by martial artists, managers, promoters, or any one or more of these persons, in an amount sufficient to finance the pension plan.

   d) Requires any pension plan established by the commission to be actuarially sound.

   e) Requires, at the time of payment of the post-contest fees required under the Boxing Act, a promoter to pay to the commission all amounts scheduled for contribution to the pension plan for martial artists.

   f) Requires, if the commission, in its discretion, requires pursuant to the pension plan, that contributions to the pension plan be made by the martial artist and their manager, the contributions to be made at the time and in the manner prescribed by the commission.

   g) Creates the Mixed Martial Arts (MMA) Pension Fund and requires all contributions to finance the pension plan for martial artists shall be deposited in the State Treasury and credited to the fund.

   h) Continuously appropriates all moneys in the MMA Pension Fund to be used exclusively for the purposes and administration of the pension plan.

   i) Specifies that the MMA Pension Fund is a retirement fund, and no moneys within it may be deposited or transferred to the General Fund.

   j) Grants the commission exclusive control of all funds in the MMA Pension Fund and specifies that no transfer or disbursement in any amount from the fund may be made except upon the authorization of the commission and for the purpose and administration of the pension plan.

   k) Requires the commission or its designee to invest the money contained in the MMA Pension Fund according to the same standard of care as a trustee, grants the commission exclusive control over the investment of all moneys in the MMA Pension Fund, and authorizes the commission to invest the moneys in the fund through the purchase, holding, or sale of any investment, financial instrument, or financial transaction that the commission in its informed opinion determines is prudent, except as otherwise prohibited or restricted by law.

l) Limits the administrative costs associated with investing, managing, and distributing the MMA Pension Fund to no more than 2 percent of the corpus of the fund, requires diligence to be exercised by administrators in order to lower the fund's expense ratio as far below 2 percent as feasible and appropriate, and requires the commission to report to the Legislature on the impact of these requirements during the next regularly scheduled sunset review.

m) Authorizes a promoter to add to the price of each ticket sold for a professional mixed martial arts contest an amount specifically designated on the ticket for contribution or as a donation, either or both, to the pension plan.

n) Specifies that any amount added by the promoter is not subject to the admissions tax required by the State Athletic Commission Act or any other deductions.

o) Specifies that the authority to add to the price of tickets does not authorize the addition of those amounts to less than all the tickets sold for the professional mixed martial arts contest involved, and requires the promoter to pay additional contributions collected in accordance with the pension plan.

p) Specifies that any additional contributions received from price added may not be considered to offset any of the contributions required by the commission under the pension plan.

q) Authorizes, in addition to any other form in which retirement benefits may be distributed under the pension plan, the commission to, in lieu of a pension, award to a covered martial artist an early pension benefit for vocational, education, training, or medical need in the amount contained in the covered martial artist's pension plan account at the time the commission makes this award and in the manner provided in the regulations governing the martial artist's pension plan.

4) Requires the commission to adopt emergency regulations to implement, interpret, or make specific this article no later than July 1, 2024, deems the adoption of regulations to be an emergency and necessary to avoid serious harm to the public peace, health, safety, or general welfare, specifies that the commission need not make a written finding of emergency, and authorizes the commission to annually readopt emergency regulations that is the same as or substantially equivalent to the previously adopted emergency regulations until January 1, 2026.

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

COMMENTS:

Purpose. This bill is sponsored by the *California State Athletic Commission*. According to the author, "This pension fund allows these athletes to save money for their retirement and creates a financial safety net to pay for medical bills. It's the first of its kind in the world of MMA and it's an important step to support these athletes who make MMA one of the fastest-growing sports in the world."

Background. California, through the California State Athletic Commission, regulates most forms of professional and amateur combative sporting events, such as boxing and martial arts events, including MMA events. Specifically, the commission regulates events where the use of full contact may result in physical harm to an opponent, including amateur contests where full contact may be unintentionally used.

The need for regulation is the inherent risk of harm in combative sporting contests, particularly when held for the entertainment of viewers. Left unregulated, contests may lack safety equipment, mismatch contestants, or, in the case of professionals, fail to pay the contestants. To that end, the commission is tasked with ensuring that contestants who wish to participate in these sports may do so safely and fairly. This is done through the licensing of the fighters themselves, as well as the managers, corners, matchmakers, trainers, promoters, and officials.

Many professional fighters also compete full-time, potentially putting off other career or employment opportunities in the meantime. They also compete on a contractual basis, which may leave them without the usual employer-sponsored benefits one may receive in other sectors, such as retirement benefits.

Acknowledging this issue, California has established a pension plan for boxers under the Boxing Act, finding and declaring that:

> That professional athletes licensed [to box], as a group, for many reasons, do not retain their earnings, and are often injured or destitute, or both, and unable to take proper care of themselves, whether financially or otherwise, and that the enactment of [these laws] is to serve a public purpose by making provisions for a needy group to insure a modicum of financial security for professional athletes.
>
> Athletes licensed [to box] may suffer extraordinary disabilities in the normal course of their trade. These may include acute and chronic traumatic brain injuries, resulting from multiple concussions as well as from repeated exposure to a large number of subconcussive punches, eye injuries, including retinal tears, holes, and detachments, and other neurological impairments.
>
> The pension plan of the commission is part of the state's health and safety regulatory scheme, designed to protect boxers licensed under this chapter from the health-related hazards of their trade. The pension plan addresses those health and safety needs, recognizing the disability and health maintenance expenses those needs may require.

However, the plan does not include other licensed martial artists regulated by the commission, including MMA fighters, kickboxers, and Muay Thai fighters. The question of whether the boxing plan should be expanded to include other licensees has been raised during each of the commission's Sunset Review hearings since 2013.[1]

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[1] The sunset review process provides an opportunity for the DCA, the Legislature, the boards, and interested parties and stakeholders to discuss the performance of the boards, and make recommendations for improvements. Each year, the Assembly Business and Professions Committee and the Senate Business, Professions, and Economic Development Committee hold joint sunset review oversight hearings to review the boards and bureaus. For more

This bill would require the commission to establish a substantially similar pension plan for martial artists. According to the commission, "This pension fund would ensure MMA fighters have a modicum source of income after they've reached the peak of their fighting career or suffered from an unexpected injury that shortened their career."

California Boxer Benefits. This bill is modeled on the laws establishing the boxing pension plan and the Boxer's Pension Fund. The plan and the fund were created in 1982 to help provide support for boxers in their later years. The plan is funded through assessments on tickets and gate fees. Covered boxers who reach the age of 50 may be paid in a lump sum, installments, or as a vocational education benefit.

To vest in the fund, a boxer must meet both of the following qualifications:

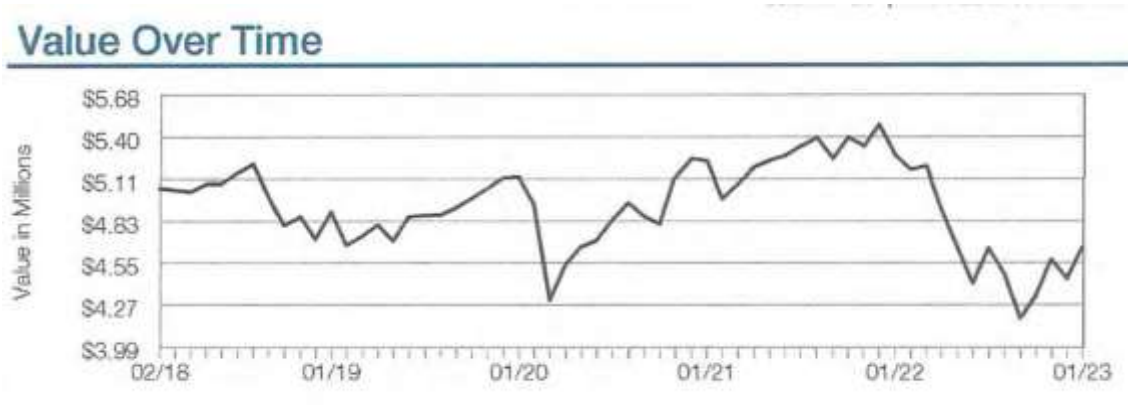
1) Fought in at least 10 rounds a year for four years in California with no more than a three-year break.

2) Fought in at least 75 scheduled professional rounds in California with no more than a three-year break.

The commission oversees the plan and the fund, and it has established a Boxers Pension Plan Subcommittee to make any needed changes to regulatory language and to review the investments and pension accounting to ensure proper processes are followed and contract scope is adhered to. The commission contracts with Benefit Resources, Inc. to administer the pension plan and Raymond James Financial Services Advisors, Inc. to manage the fund investments.

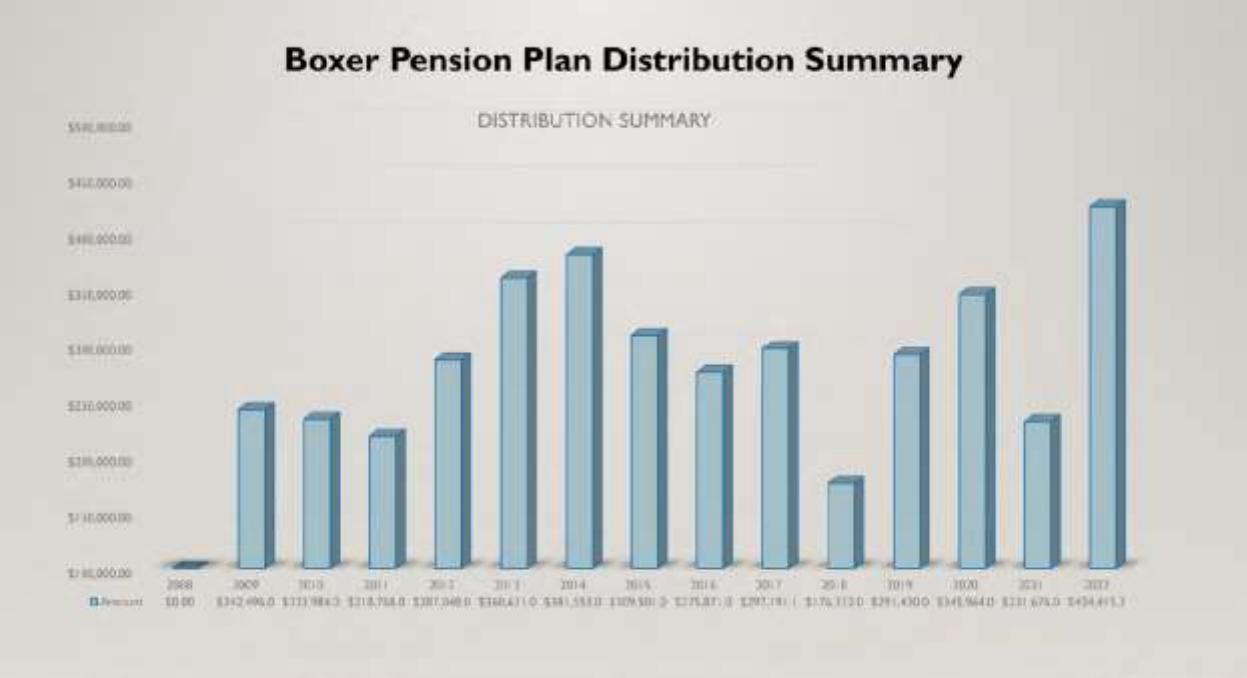
Boxer Pension Administration. Early on, and as recently as 2015, there were significant questions as to whether the pension fund was functional or sustainable. Since then, the fund appears relatively stable. There were also, and arguably still are, significant hurdles in locating boxers who qualify for a payment.

According to the investment fund statement for December 30, 2022, to January 31, 2023, the Pension Investment account has approximately $4.658 million dollars as of January 31, 2023. The statement, available in the commission's March 6, 2023, meeting materials, also shows the following value over time:



information on the commission's Sunset Review, see the background papers for the 2013, 2015, and 2019 Joint Sunset Review Oversight Hearings, accessible at: https://abp.assembly.ca.gov/jointsunsethearings.

In Fiscal Year 2021-22, the commission paid $371,283 in lump sum payments to 11 retired boxers. The following chart, available in the commission's March 6, 2023, meeting materials, also shows the following value over time:



IMPLEMENTATION ISSUES:

Lack of Structure. This bill, as with the boxing pension laws, is silent on the details of eligibility for the MMA pension plan. And, as noted in numerous past sunset reviews, the boxing plan experienced numerous issues, including significant hurdles in locating boxers who qualify for a payment.

It will be up to the commission to determine in regulation the details of the plan. While the MMA plan will be modeled after the boxing plan, the commission notes there will be some differences. In terms of funding, the commission's current plan to assess $1 for every ticket sold to go towards the MMA Fighters Pension Fund.

There are significant differences in the number of rounds between boxing and other martial arts, and the vesting formula for MMA will have to reflect that. According to the commission, elite MMA fighters have an average career length of 10 years, or on average 20 fights before retiring. Currently, the commission is planning to allow vesting between 12-14 fights, which is around 39 scheduled rounds at commission regulated MMA events.

ARGUMENTS IN SUPPORT:

None on file

ARGUMENTS IN OPPOSITION:

None on file

AMENDMENTS:

Definition of Mixed Martial Arts Contest. This bill specifies that martial artists who compete in "mixed martial arts contests" may become eligible for the pension plan. However, is no definition of mixed martial arts in the Boxing Act, except that it is defined as a component or type of martial arts under BPC § 18627(a). This may exclude kickboxing, Muay Thai, and other types of full-contact martial arts. To clarify that all martial artists except boxers are included, the bill should be amended as follows:

On page 4 of the bill, after line 2:

> **18888.1.** For purposes of this article, *the following apply:* ~~"martial~~
>
> *(a) "Martial* artist" shall mean a licensed professional mixed martial artist, licensed professional kickboxer, licensed professional Muay Thai fighter, or athlete licensed by the commission other than a boxer.
>
> *(b) "Mixed martial arts contest" shall mean any professional martial arts contest approved by the commission, including kickboxing and Muay Thai, other than boxing.*

REGISTERED SUPPORT:

California State Athletic Commission (sponsor)

REGISTERED OPPOSITION:

None on file

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1341 (Berman) – As Amended March 16, 2023

SUBJECT: Public health: COVID-19: testing and dispensing sites: oral therapeutics.

SUMMARY: Authorizes pharmacists to continue furnishing COVID-19 oral therapeutics to patients who test positive for SARS-CoV-2, without a prior prescription, until January 1, 2025.

EXISTING LAW:

1) Establishes the California State Board of Pharmacy (BOP) to administer and enforce the Pharmacy Law, comprised of seven pharmacists and six public members. (BPC § 4002)

2) Defines "furnish" as supplying by any means, by sale or otherwise. (BPC § 4026)

3) Defines "dispense" as the furnishing of drugs or devices upon a prescription from a physician, nurse practitioner, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor acting within the scope of their practice. (BPC § 4024)

4) Defines "pharmacist" as a natural 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; BPC § 4051)

5) Declares pharmacy practice to be "a dynamic, patient-oriented health service that applies a scientific body of knowledge to improve and promote patient health by means of appropriate drug use, drug-related therapy, and communication for clinical and consultative purposes" and that "pharmacy practice is continually evolving to include more sophisticated and comprehensive patient care activities." (BPC § 4050)

6) 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)

7) Authorizes a pharmacist to furnish an approved opioid antagonist in accordance with standardized procedures or protocols developed and approved by the BOP and the Medical Board of California, in consultation with stakeholders. (BPC § 4052.01)

8) Authorizes an entity contracted with and approved by the Department of Public Health to operate a designated COVID-19 testing and dispensing site to acquire, dispense, and store COVID-19 oral therapeutics at or from a designated site. (BPC § 4176)

9) Allows a person who meets the federal CLIA requirements for high complexity testing to perform an analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in either a clinical laboratory or a city or county public health laboratory. (BPC § 1206.7; Health and Safety Code § 101161)

THIS BILL:

1) Authorizes a pharmacist to furnish COVID-19 oral therapeutics following a positive test for SARS-CoV-2, the virus that causes COVID-19.

2) Requires a pharmacist to utilize relevant and appropriate evidence-based clinical guidelines published by the federal Center for Disease Control, National Institutes of Health, Infectious Diseases Society of America, or other clinically recognized recommendations in providing these patient care services prior to furnishing COVID-19 oral therapeutics.

3) Requires a pharmacist who furnishes COVID-19 oral therapeutics to notify the patient's primary care provider, or enter the appropriate information in a patient record system shared with the primary care provider, as permitted by that primary care provider.

4) Requires a pharmacist to document, to the extent possible, the kind and amounts of COVID-19 oral therapeutics furnished, as well as information regarding any testing services provided, in the patient's record in the record system maintained by the pharmacy for three years.

5) Defines "COVID-19 oral therapeutics" as drugs that are approved or authorized by the United States Food and Drug Administration (FDA) for the treatment of COVID-19 and administered orally.

6) Subjects each of the above provisions to a repeal date of January 1, 2025.

7) Adds a repeal date of July 1, 2028 to provisions of existing law currently allowing persons who meets CLIA requirements for high complexity testing to perform an analysis of samples to test for COVID-19 in either a clinical laboratory or public health laboratory.

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

COMMENTS:

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

> "Throughout the pandemic, California has relied on pharmacy professionals to expand access to testing, immunization, and treatment for COVID-19. While much of the state and national pandemic response is currently winding down, it remains essential that patients be able to start receiving effective therapeutics like Paxlovid immediately upon testing positive for the virus. AB 1341 will extend the preexisting authority of licensed pharmacists to furnish COVID-19 oral therapeutics without a prescription until January 1, 2025."

Background.

COVID-19 Pandemic. On March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency as a result of the impacts of the COVID-19 public health crisis. On March 12, 2020, the Governor issued an executive order that directed residents to follow public health directives and guidance, including to cancel large non-essential gatherings that do not meet certain state criteria. On March 19, 2020, the Governor formally issued a statewide "stay at home order," directing Californians to only leave the house to provide or obtain specified essential services. Subsequent guidance from the State Public Health Officer expressly exempted from that order various professionals regulated by the Department of Consumer Affairs (DCA).

On March 30, 2020, Governor Newsom announced an initiative to "expand California's health care workforce and recruit health care professionals to address the COVID-19 surge" and signed Executive Order N-39-20. This executive order established a waiver request process under the DCA and included other provisions authorizing the waiver of licensing, certification, and credentialing requirements for health care providers. This waiver process constituted a delegation of the Governor's existing authority under the California Emergency Services Act (EMSA) to make, amend, and rescind orders and regulations necessary to respond to a declared emergency.

Approximately 74 further executive orders were issued to waive or revise various laws to advance the state's pandemic response. Over the course of the pandemic, approximately 596 EO provisions were effectuated, with 27 still in effect as of October 2022. Dozens of additional waivers have been issued for licensing programs under the DCA. The majority of these waivers have since expired, and a number were permanently codified through the enactment of legislation.

COVID-19 Therapeutics. The FDA has authorized two oral antiviral pills for the treatment of mild-to-moderate COVID-19. Paxlovid, developed by Pfizer, is a combination formulation of two protease inhibitor medications: nirmatrelvir and ritonavirhas. Molnupiravir, developed by Merck & Co., is sold under the brand name Lagevrio. Both therapeutics have been shown to prevent hospitalization or death in high-risk patients with mild to moderate COVID-19.

As antiviral therapeutics for COVID-19 became available at the beginning of 2022, the CDPH and other public health entities have pushed to make those treatments accessible, particularly to high-risk patients. Therapeutics have been made free to all Californians, including the uninsured. COVID-19 therapeutics are most effective when taken within days of a patient developing symptoms, so beginning treatment immediately upon receipt of a positive test is the most efficacious way of prevent a patient's condition from becoming more severe.

Despite the effectiveness and wide availability of COVID-19 therapeutics, it was reported in 2022 that the antiviral medications were being underutilized, particularly within low-income communities and communities of color. The CDPH issued a health advisory for California healthcare providers urging a low threshold to prescribe COVID-19 therapeutics. The Governor repeatedly stated that his objective was to "remedy ongoing inequities in therapeutics access."

In May 2022, the CDPH announced that it was upgrading 146 existing testing sites to "Test to Treat" locations where individuals could be seen by a provider and receive a prescription for oral antiviral therapeutics immediately upon testing positive for COVID-19. This initiative was launched as a partnership with OptumServe, a company with existing contracts with the state to provide vaccination and testing site services. The state's program aligned with the Biden Administration's national Test to Treat initiative in the National COVID-19 Preparedness Plan.

On September 14, 2021, the Secretary of the federal Department of Health and Human Services, Xavier Becerra, issued a declaration authorizing pharmacists to independently order and administer any COVID-19 therapeutic in compliance with FDA authorization. On July 6, 2022, the FDA announced that it had revised the Emergency Use Authorization (EUA) for Paxlovid (nirmatrelvir and ritonavir) to authorize state-licensed pharmacists to prescribe Paxlovid to eligible patients. This authority was effectuated in California through a waiver issued by the Director of DCA, which waived any provisions of law prohibiting a pharmacist from independently initiating and furnishing Paxlovid consistent with the EUA.

The EUAs for both Paxlovid and Lagevrio are expected to remain in effect until the FDA completes its full approval of these therapeutics. This full approval is expected to occur sometime this summer, at which point it is believed that pharmacists will only remain authorized to furnish the drugs directly to patients until the federal stockpile established during the EUA has expired. This bill will preserve the ability of pharmacists in California to continue furnishing these drugs directly to patients after the federal authorization has ended, until January 1, 2025.

Clinical Laboratory Testing Requirements. Federal and state laws regulate clinical laboratory testing on human specimens for diagnostic or assessment purposes. The purpose of clinical laboratory regulation is to ensure patients who undergo diagnostic testing receive accurate and timely results. Inaccurate or delayed results may prevent a patient from receiving the proper level or type of care.

To that end, all clinical laboratories and tests must comply with requirements under CLIA. CLIA establishes the minimum standards under federal law but allows states to establish more stringent requirements. Under CLIA, laboratory tests are classified based on the complexity of the laboratory tests performed. In general, the more complicated the test, the stricter the requirements relating to the test, including the requirements for training and licensing of the laboratory personnel performing the test.

There are two types of tests used to detect SARS-CoV-2, the virus that causes COVID-19. The first type is diagnostic tests, which will reveal if an individual has an active coronavirus infection; diagnostic tests include both antigen tests (which detect the presence of certain viral proteins) and molecular tests (which detect viral genetic material). The second type of COVID-19 test is antibody tests, which use a blood sample to detect antibodies that could reveal either an active or a previous infection. Tests for SARS-CoV-2 have been deemed CLIA-waived for the duration of the federal emergency declaration through the FDA's EUA.

On March 12, 2020, Governor Newsom issued Executive Order N-25-20, which substantially broadened the available workforce for individuals to perform analysis of COVID-19 tests. Because California requirements are considered more restrictive than the federal regulations, laboratories utilizing the waiver were able to utilize professionals who meet federal standards but who would not currently qualify under Section 1206.5. This increased capacity was essential to California's robust response to the COVID-19 pandemic through the proliferation of testing options.

When Governor Newsom announced that California's State of Emergency would be terminated on February 28, 2023, he requested statutory changes to ensure "the continued ability of laboratory workers to solely process COVID-19 tests." Subsequently, Assembly Bill 269 (Berman) was enacted to continue the waiver of state requirements for individuals analyzing COVID-19 tests who meet the federal requirements for high complexity testing. During the expedited legislative process for that bill, the author made commitments to stakeholders that he would add sunset dates to these provisions in another vehicle introduced following enactment of the urgency legislation. This will would fulfill that promise by adding a July 1, 2028 sunset date to the relevant provisions of Assembly Bill 269.

Current Related Legislation. SB 524 (Caballero) would authorize a pharmacist to furnish prescription medications that are furnished pursuant to the result from a test performed by the pharmacist that is used to guide diagnosis or clinical decisionmaking. *This bill is pending referral in the Senate Committee on Rules.*

Prior Related Legislation. AB 269 (Berman, Chapter 1, Statutes of 2023) authorizes a person who meets the CLIA requirements for high complexity testing to perform an analysis of samples to test for SARS-CoV-2, the virus that causes COVID-19, in either a clinical laboratory or a city or county public health laboratory.

ARGUMENTS IN SUPPORT:

The **California Community Pharmacy Coalition** (CCPC) supports this bill, writing: "For many Californians, especially those living in rural communities, access to health care is limited. A 2018 study found that on average, driving to a hospital in a rural community takes 17 minutes – a distance that is often too far for those in need of care. However, approximately 90% of Californians live within five miles of a pharmacy. Because of this proximity, pharmacies have become many patients' primary connection to health care. This was highlighted during the COVID-19 Pandemic and continues to be a reality for millions of Californians." The CCPC states that "because it will increase healthcare access for Californians and ensure effective testing and treatment for COVID-19, the California Community Pharmacy Coalition is in strong support of AB 1341."

The **County Health Executives Association of California** also supports this bill, writing: "COVID-19 therapeutics help to prevent or treat eligible non-hospital patients who have tested positive for COVID-19 and can improve outcomes, reduce stress on healthcare facilities, and even save lives. AB 1341 would also allow a pharmacist to furnish COVID-19 oral therapeutics after a positive COVID-19 test as long as they utilize relevant and appropriate clinical guidelines, notify the patient's primary care physician or recommend they see a physician, and document the kind and amounts of therapeutics they furnish. This continued flexibility beyond the end of California's State of Emergency Declaration on the COVID-19 pandemic, until January 1, 2025, will support continued access for Californians to COVID-19 treatment."

ARGUMENTS IN OPPOSITION:

None on file.

AMENDMENTS:

To ensure that pharmacists retain the authority to independently furnish COVID-19 oral therapeutics once federal authorization ends, an urgency clause should be added to this bill so that its provisions may go into effect immediately.

REGISTERED SUPPORT:

California Community Pharmacy Coalition
County Health Executives Association of California

REGISTERED OPPOSITION:

None on file.

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

Date of Hearing: March 28, 2023

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1395 (Garcia) – As Introduced February 17, 2023

SUBJECT: Licensed Physicians and Dentists from Mexico Pilot Program: requirements.

SUMMARY: Requires the Medical Board of California (MBC) to issue a license to applicants for participation in the Licensed Physicians and Dentists from Mexico Pilot Program who do not currently possess federal documentation but otherwise meet the pilot program's requirements.

EXISTING LAW:

1) Establishes the Medical Practice Act, which provides for the licensure and regulation of physicians and surgeons. (Business and Professions Code (BPC) §§ 2000 *et seq.*)

2) Establishes the MBC, a regulatory board within the Department of Consumer Affairs comprised of 15 appointed members. (BPC § 2001)

3) Requires all continuing medical education courses to contain curriculum that includes cultural and linguistic competency in the practice of medicine and the understanding of implicit bias. (BPC § 2190.1)

4) Establishes the Licensed Physicians and Dentists from Mexico Pilot Program, which allows up to 30 physicians from Mexico specializing in family practice, internal medicine, pediatrics, and obstetrics and gynecology to practice medicine in California. (BPC § 853(a))

5) Provides that the MBC shall issue three-year nonrenewable licenses to practice medicine to licensed Mexican physicians who are eligible to participate in the pilot program. (BPC § 853(b))

6) Requires physicians from Mexico to comply with various requirements to participate in the pilot program, including education and practice requirements. (BPC § 853(c))

7) Requires all boards under the Department of Consumer Affairs to require individual applicants for licensure to provide a social security number (SSN) or, for certain individuals who do not have an SSN, an individual taxpayer identification number (ITIN). (BPC § 30)

THIS BILL:

1) Requires the MBC to issue a three-year nonrenewable license to an applicant for participation in the pilot program who has not provided an ITIN or SSN, if the MBC determines the applicant is otherwise eligible for that license.

2) Requires applicants for the pilot program who receive a license without submitting an ITIN or SSN to immediately seek both a three-year visa and the accompanying SSN from the United States government within 14 days.

3) Further requires applicants to immediately provide the MBC with their SSN within 10 days of the federal government issuing the social security card related to the issued visa.

4) Prohibits applicants from engaging in the practice of medicine until the MBC determines that they have met the above requirements.

5) Requires the MBC to notify applicants once it has determined that the applicant may engage in the practice of medicine.

6) States that in order to allow physicians from Mexico to be issued a license by the MBC as soon as possible, and to ensure that those physicians are able to provide vital medical services throughout the timeframe of their license, thereby preserving the health of Californians, it is necessary for the bill to take effect immediately.

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

COMMENTS:

Purpose. According to the author: "AB 1395 is necessary to streamline the process in which Doctors are able to obtain their medical license. As it stands in order for doctors to get their medical license they must have a social security number of Individual Tax identification number (ITIN), right now the process to get an ITIN number 3 to 5 months. This bill includes an urgency clause to specifically allow the remaining doctors from the program to be able to get their medical license without a social security number or ITIN."

Background.

Over the course of the past several decades, there has been an acknowledged decline in the number of accessible primary care physicians, both in California and nationally. This purported physician shortage has disproportionately impacted communities with concentrated populations of immigrant families and people of color. A recent study found that between 2010 and 2019, the number of primary care physicians in proportion to population remained largely unchanged nationally, and that counties with a high proportion of minorities saw a decline during that period.[1]

There have been additional concerns that those physicians who are accessible in vulnerable communities do not necessarily possess the linguistic or cultural competence to appropriately treat all patients. A 2018 study published by the Latino Policy & Politics Initiative at the University of California, Los Angeles found that while nearly 44 percent of the California population speaks a language other than English at home, many of the state's most commonly spoken languages are underrepresented by the physician workforce, including Spanish, Filipino, Thai/Lao, and Vietnamese as underrepresented languages.

In part to address the primary care physician shortage and to increase the number of physicians who already possess cultural and linguistic competence in the treatment of communities with high proportions of immigrant families from countries like Mexico, the Legislature enacted Assembly Bill 1045 (Firebaugh) in 2002. This bill created the Licensed Physicians and Dentists from Mexico Pilot Program. The pilot program allows a limited number of qualifying physicians and dentists to come to California and practice for a limited time under a three-year nonrenewable license.

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[1] Liu M, Wadhera RK. *Primary Care Physician Supply by County-Level Characteristics*, 2010-2019.

The first annual progress report on the pilot program, submitted to the Legislature by the University of California, Davis in August 2022, found that many patients had positive experiences with physicians practicing through the pilot program. In particular, patients reportedly had substantially positive experiences communicating with their doctor, and frequently felt welcome. While the overall efficacy of the pilot program is still under review, initial reports appear positive.

However, there have been reports of certain barriers in the process through which physicians from Mexico receive approval to participate in the pilot program. As noncitizens, applicants typically will not have an ITIN or SSN, which is required by all regulatory boards, including the MBC, as a condition of receiving a license. However, applicants typically cannot apply to receive a visa and accompanying SSN without proof that they may legally work in California, which they cannot demonstrate without a license from the MBC.

This bill would resolve the above issue by creating a process through which the MBC grants a license to applicants who meet all requirements except the ability to submit an ITIN or SSN. The applicant may then use that license to apply for and obtain the needed documentation, at which point they would submit that documentation to the MBC in order to finalize approval of their participation in the pilot program. The physicians would be prohibited from engaging in the practice of Medicine in California until the MBC determines that they have completed all the requirements of participation, including submission of the required documentation.

Current Related Legislation. AB 470 (Valencia) would update continuing medical education standards to further promote cultural and linguistic competency and enhance the quality of physician-patient communication. *This bill is pending in this committee.*

AB 1396 (Garcia) is substantially similar to this proposal and additionally authorizes the MBC to extend the nonrenewable licenses of physicians currently participating in the pilot program. *This bill is pending in this committee.*

Prior Related Legislation. AB 1045 (Firebaugh, Chapter 1157, Statutes of 2002) established the Licensed Physicians and Dentists from Mexico Pilot Program.

ARGUMENTS IN SUPPORT:

The **Medical Board of California** supports this bill, writing: "The Board recognizes the unique challenges that some MPP applicants are facing. This modest bill will provide qualified applicants an MPP license to facilitate their effort to obtain a necessary visa from the federal government and begin serving patients here in California. Subject to the requirements of the bill, these applicants would not be able to begin practicing medicine until obtaining an SSN and providing that to the Board. This bill furthers the purposes of this existing program; therefore, the Board supports AB 1395."

CaliforniaHealth+ Advocates also supports this bill, writing: "Twenty-two physicians are currently practicing at our member health centers. Many of our health centers are interested in participating and hosting eligible physicians to bring culturally and linguistically competent physicians to provide care to communities in need. As the committee well knows, the physician shortage, particularly in rural and underserved communities, is at a critical point; efforts to bring in highly trained physicians from Mexico to provide care in disenfranchised communities must be prioritized."

ARGUMENTS IN OPPOSITION:

None on file.

REGISTERED SUPPORT:

AltaMed Health Services
Altura Centers for Health
California Health+ Advocates
Grower-shipper Association of Central California
Medical Board of California

REGISTERED OPPOSITION:

None on file.

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