

Date of Hearing: April 4, 2017

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Rudy Salas, Chair

AB 508 (Santiago) – As Introduced February 13, 2017

NOTE: This bill is doubled referred, and if passed by this Committee, will be referred to the Assembly Committee on Higher Education.

SUBJECT: Health care practitioners: student loans.

SUMMARY: Repeals the authority for a licensing board under the Department of Consumer Affairs (DCA), as defined, to cite and fine a licensed healthcare practitioner or deny an initial license application or renewal for a healing arts license if the applicant or licensee is in default on a federal health education loan, as specified.

EXISTING LAW:

- 1) Provides for the licensure and regulation of various professions and vocations by boards, bureaus, and other entities within the DCA. (Business and Professions Code (BPC) §§ 22, 100-144.5)
- 2) Categorizes licensed professions into two general types, healing arts and professions and vocations generally. (BPC §§ 500-11506)
- 3) Authorizes a board to cite and fine a currently licensed health care practitioner if the licensee is in default on a United States Department of Health and Human Services (HHS) education loan, including a Health Education Assistance Loan. (BPC § 685(a))
- 4) Authorizes a board to deny an application for a health care practitioner license or deny renewal of a license if the applicant or licensee is in default on an HHS education loan, including a Health Education Assistance Loan, until the default is cleared or until the applicant or licensee has made satisfactory repayment arrangements. (BPC § 685(b))
- 5) Provides that, in determining whether to issue a citation and the amount of the fine to a licensee or to deny an application or renewal of a license, a board shall take into consideration 1) the population served by the health care practitioner and 2) the health care practitioner's economic status. (BPC § 685(c))
- 6) Defines, for purposes of discipline based on default on a health education loan, the following terms: (BPC § 685(d))
 - a) "Board" means a licensing board or agency having jurisdiction of a licensee, but does not include the Board of Chiropractic Examiners.
 - b) "Health care practitioner" means a person licensed or certified pursuant to Division 2 (Healing Arts) of the BPC (§§ 500-4999.129), or licensed pursuant to the Osteopathic Initiative Act.

THIS BILL:

- 1) Repeals the provisions authorizing boards to cite and fine a healing arts licensee or deny a healing arts initial license or renewal on the basis of default on the health education loans noted in numbers 3) and 4) above.

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

COMMENTS:

Purpose. This bill is author sponsored. According to the author, this bill “will protect the professional licenses of people who are struggling financially by ensuring their licenses will not be suspended or revoked because they have defaulted on federal student loans. Under current law, some licensing Boards have this authority. I believe that California should not be in the business of disciplining working professionals struggling to pay off their debts, especially those who provide a vital service to the public such as nurses, dentists, and doctors. By removing a person’s ability to earn a living by practicing their profession, the state also removes their ability to repay their loans or other bills which contributes to the cycle of debt.”

Background. In California, many professions require a license to legally practice, including many of the healing arts. Many of the professional licenses are administered by licensing boards, bureaus, and other entities within the DCA. The DCA licensing entities are established to protect the people of California through adequate regulation of businesses and professions that engage in activities that risk harm to the health, safety, and welfare of the public (BPC § 101.6).

While the typical focus of licensing is consumer protection, occupational licensing has been used for more general public welfare purposes (although also sometimes indirectly benefiting consumers). For instance, the Contractor’s State Licensing Board has the authority to work with the Labor Commissioner and discipline licensees for failing to carry workers’ compensation insurance (BPC § 7011.4).

Healing arts boards (except for the Board of Chiropractic Examiners) also have an authority that is not directly tied to consumer protection. Currently, the boards are authorized to issue a citation or a fine to a licensee or deny the license renewal of a licensee who has defaulted on a federal HHS education loan. The law also authorizes the boards to deny the license of an applicant in default on an HHS education loan. This bill would repeal that authority.

According to the author, “[w]e believe the authority granted to licensing boards is unnecessarily punitive.... [I]f people had the means to pay down their debt then they would. We would give the benefit of the doubt to professionals that loan default is not the result of careless borrowing, but instead legitimate financial issues. If then debtors are punished by having their licenses revoked or denied we believe this is excessive and actually would actually not motivate people to make payments since they do not have the money to do so.”

According to the DCA, based on discussions with its healing arts boards, it does not appear that the boards have used this authority. One board that had received HHS loan default notifications in the past has confirmed that it no longer does. Even if the boards still wish to use the authority, they may not be the right entity to properly determine what “satisfactory repayment

arrangements” are or have the ability to determine equitable thresholds for a practitioner’s “economic status.”

Federal Health Education Loans. The authority to discipline healing arts licensees and deny applicants for defaulting on an HHS loan was established under AB 2019 (Speier), Chapter 683, Statutes of 2002. At the time, the author of AB 2019 stated that \$173 million was owed nationwide by health care practitioners in defaulted educational loan debts, \$40 million of which was estimated to be owed by California practitioners. According to the author of AB 2019, “these individuals are hard-core defaulters who may only respond to strong local pressure, including revocation or suspension of their license to practice.”

However, it is not clear that the loans targeted under by that bill are the same loans currently in existence. For example, according to the U.S. Department of Education, the Health Education Assistance Loan (HEAL) Program was only available from fiscal year 1978 through fiscal year 1998 (on July 1, 2014, the HEAL Program was transferred from the U.S. Department of Health and Human Services to the U.S. Department of Education). It is no longer possible to obtain a new HEAL Program loan.

At the time AB 2019 was enacted, the HHS published a list of practitioners who defaulted under the HEAL program in the federal register. Currently, the U.S. Department of Education does not publish this information, but, pursuant to 42 U.S.C. 292h(c), it plans to in the future (82 FR 7807).

Currently, the loans offered by the HHS (through the Health Resources & Services Administration (HRSA)) appear to be aimed at improving health workforce shortages and providing educational opportunities for disadvantaged students from diverse backgrounds. For instance, under the Health Professions Student Loans (HPSL) program, HRSA provides “grants to participating schools to offer long-term, low interest loans to needy students, enrolled full-time or half-time in a dentistry, optometry, pharmacy, podiatric, or veterinary medicine.”

Prior Related Legislation. AB 2019 (Speier), Chapter 683, Statutes of 2002, authorized a licensing agency to cite, fine, or deny the license application or renewal for a healing arts licensee who is in default on the specified federal health education loans.

REGISTERED SUPPORT:

None on file.

REGISTERED OPPOSITION:

None on file.

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