

Date of Hearing: June 26, 2018

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

SB 1492 (Committee on Business, Professions and Economic Development) – As Amended June 4, 2018

**SENATE VOTE:** 38-0

**SUBJECT:** The Department of Consumer Affairs

**SUMMARY:** Makes several non-controversial, minor, and technical changes to various provisions pertaining to the non-healing arts boards and bureaus within the Department of Consumer Affairs. Specifically, **this bill:**

- 1) Makes the following changes relating to the California Board of Accountancy:
  - a) Removes an obsolete reference to a statute that was repealed in 2010;
  - b) Requires the Board to rely on the findings or events stated in a certified true and correct copy of the disciplinary or other action as conclusive evidence for the purpose of determining discipline relating to:
    - i) Cancellation, revocation, suspension, or refusal to renew a certificate or other authority to practice as a certified public accountant or public accountant or any other discipline by any other state or foreign country.
    - ii) Suspension or revocation of the right to practice before any governmental body or agency.
    - iii) The imposition of discipline, penalty, or sanction on a registered public accounting firm or any associated person or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees.
  - c) Replaces the out-of-date term of “blank” with “form” which is more consistent with other areas of statute.
- 2) Makes the following changes relating to the Board of Barbering and Cosmetology:
  - a) Removes the requirement that the Board of Barbering and Cosmetology notify applicants for licensure of a failed exam result by mail.
- 3) Makes the following changes relating to the Bureau for Private Postsecondary Education:
  - a) Requires institutions exempt from the Bureau’s Practice Act to comply with regulations requiring an institution, upon closure, to provide copies of transcripts to the Bureau in hard-copy or electronic form, not original transcript ;

- b) Clarifies that the requirement for a quorum for the advisory committee is a majority of the appointed voting members of the committee;
- c) Replaces a reference to Education Code Section 94874.1 which does not exist in current law with the correct reference to Education Code Section 94874.7.

**EXISTING LAW:**

- 1) Provides for the licensing and regulation of various professions and businesses by the 25 boards, nine bureaus, three committees, and one commission within the Department of Consumer Affairs under various licensing acts within the Business and Professions Code. (Business and Professions Code (BPC) Section 101)
- 2) Provides that a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by a California license may be grounds for disciplinary action by a state licensing board. A certified copy of the record of disciplinary action taken against the licensee shall be conclusive evidence of the events related therein. (BPC Section 141)
- 3) Contains the following provisions relating to the California Board of Accountancy:
  - a) Requires Certified Public Accounts who wish to provide attest services (e.g. performing audits or examinations of prospective financial information) to complete 500 hours of experience performing attest-related duties under the supervision of a certified public accountant that is authorized to perform attest services; (BPC Section 5095)
  - b) Authorizes the Board to revoke, suspend, or refuse to renew any permit or certificate or censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, specified activities; and, (BPC Section 5100)
  - c) Requires the Board to charge and collect a fee for the certified public accountant certificate from each applicant for licensure and specifies that the fee must accompany the application for licensure. (BPC Section 5130)
- 4) Contains the following provisions relating to the Board of Barbering and Cosmetology:
  - a) Requires the Board to mail or deliver the grade received on a board-issued exam to every applicant who failed the exam and allow unsuccessful applicants to inspect their examination within 90 days of taking the exam. (BPC Section 7341)
- 5) Contains the following provisions relating to the Bureau for Private Postsecondary Education:
  - a) Establishes a list of institutions that are exempted from the Practice Act and which laws exempt institutions must still comply with; (Education Code (EDC) Section 94874)
  - b) Establishes a 12-member advisory committee within the Bureau made up of 10 voting members and two non-voting members and specifies, among other provisions, that a

majority of the appointed members of the committee is needed to establish a quorum for the committee's meetings; (EDC Section 94880)

- c) Requires institutions, prior to closing, to provide the Bureau with pertinent student records and if the institution is accredited, a plan for the retention of student records and transcripts; and, (EDC Section 94927.5)
- d) Establishes a list of requirements that allow specified institutions to claim an exemption from the Practice Act. (EDC Section 94947)

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, no significant fiscal impact is anticipated.

**COMMENTS:** *Double referral.* This bill was heard by the Assembly Committee on Business and Professions, and passed out with a vote of 17-0 on June 19, 2018.

*Purpose.* This bill is one of two pieces of legislation authored by the Senate Business, Professions, and Economic Development Committee. According to the committee, the bill is intended "...to consolidate a number of non-controversial provisions related to various non-health related regulatory programs and professions governed by the Business and Professions Code. Consolidating the provisions in one bill is designed to relieve the various licensing boards, bureaus, professions and other regulatory agencies from the necessity and burden of having separate measures for a number of non-controversial revisions."

"Many of the provisions of this bill are minor, technical, and updating changes, while other provisions are substantive changes intended to improve the ability of various licensing programs and other entities to efficiently and effectively administer their respective laws. However, as a committee bill, if controversy or opposition should arise regarding any provision that cannot be resolved, then that provision will be removed from the bill. This will eliminate the chance of placing any of the other provisions in jeopardy."

*Background.* 1) *California Board of Accountancy.* Current law requires certified public accountants to complete 500 hours of experience performing attest-related duties (e.g. performing audits or examinations of financial information) under the supervision of a certified public accountant that is authorized to provide attest services. Current law deems an individual who meets the requirements of an inoperative section of the Business and Professions Code to meet the experience requirement. This bill deletes the reference to that previously sunset code section.

Current law provides licensing boards within the Department of Consumer Affairs general authority to take disciplinary action against a licensee based on disciplinary action taken by another state or federal agency and allows boards to rely on the record of that action as evidence. This bill would clarify that the Board of Accountancy has the authority to rely on administrative orders of outside agencies when making disciplinary actions, without independently verifying the facts of those disciplinary actions.

2) *Board of Barbering and Cosmetology.* Current law requires the Board to mail or deliver the grade received on a board-issued exam to every person who failed the exam and allow unsuccessful applicants to review their examination paper. Since the Board now uses electronic

examinations, there are no longer hard copies for an unsuccessful applicant to review. Applicants are given the failure notification and the pass/fail rate summary to review immediately after the examination. This bill would delete the requirement that the Board mail results to failing applicants and the requirement that the board allow an applicant to inspect his or her examination paper.

3) *Bureau of Private Postsecondary Education*. Current law requires a closing educational institution to provide the Bureau with pertinent student records. Institutions are required to keep original records and provide the Bureau with copies, but the current statute is unclear on this point. This bill will clarify that a closing institution must provide the Bureau with a copy of student records, not the original document. Additionally, institutions can be exempt from regulation by the Bureau if they meet certain criteria, but there are still obligations that those institutions must follow in order to operate in California. This bill would add a reference to the Education Code Section that specifies the information that a closing school must provide to the Bureau that specifies what constitutes an exempt institution. This makes it clear that exempt institutions are still obligated to provide copies of student records to the Bureau prior to closing.

Current law defines the requirement for a quorum of the Bureau's advisory committee to be "a majority of the appointed members of the committee." However, the statute is not clear whether the two non-voting legislative ex-officio members are to be counted for the quorum requirements. The Bureau has had to cancel a number of meetings due to lack of quorum which is problematic because it is one of the key ways for stakeholders to provide input to the Bureau. By clarifying that a majority of the voting members is needed to establish a quorum, this bill will help ensure that the advisory committee can meet on a regular basis.

*Prior legislation*. SB 1480 (Hill) makes a number of substantive changes to licensing boards under the Department of Consumer Affairs intended to enhance operational efficiencies and makes other technical and clarifying changes. That bill is currently pending in the Assembly Committee on Appropriations.

SB 1491 (Committee on Business, Professions, and Economic Development) makes numerous minor, technical, or clarifying changes to the statutes governing several healing arts boards within the Department of Consumer Affairs. That bill is currently pending in the Assembly Committee on Appropriations.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

None on file.

### **Opposition**

None on file.

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