

Senate Bill No. 98

CHAPTER 4

An act to amend Sections 130, 2702, and 2703 of, and to add and repeal Sections 2701 and 2708 of, the Business and Professions Code, relating to healing arts, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor February 14, 2012. Filed with Secretary of State February 14, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 98, Committee on Budget and Fiscal Review. Nursing.

Existing law, the Nursing Practice Act, provides for the licensure and regulation of registered nurses. The Board of Registered Nursing, which was repealed on January 1, 2012, administered the provisions of that act.

This bill would establish a new Board of Registered Nursing, would vest that board with the same powers as the previous board of the same name, and would require the board to appoint an executive officer. The bill would repeal the authority of the board and its executive officer on January 1, 2016. The bill would require the executive officer of the prior board to serve as interim executive officer of the new board until the appointment of a permanent executive officer, as specified. The bill would also ratify and declare valid a specified interagency agreement entered into between the Board of Registered Nursing and the director of the department and would enact other related provisions.

Existing law requires that the board consist of 2 public members and 5 licensees appointed by the Governor, one public member appointed by the Senate Committee on Rules, and one public member appointed by the Speaker of the Assembly. Under existing law, all appointments to the board are for a term of 4 years.

This bill would require that one of the initial public members appointed by the Governor serve a term of one year, that the other public member initially appointed by the Governor serve a term of 5 years, that the initial licensed members serve terms of 2, 3, or 4 years, as specified, and that the initial public members appointed by the Senate Committee on Rules and the Speaker of the Assembly serve terms of 4 years.

The bill would appropriate specified sums from the Board of Registered Nursing Fund to the Board of Registered Nursing for purposes of administering the Nursing Practice Act.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 130 of the Business and Professions Code is amended to read:

130. (a) Notwithstanding any other provision of law, the term of office of any member of an agency designated in subdivision (b) shall be for a term of four years expiring on June 1.

(b) Subdivision (a) applies to the following boards or committees:

- (1) The Medical Board of California.
- (2) The California Board of Podiatric Medicine.
- (3) The Physical Therapy Board of California.
- (4) The Board of Registered Nursing, except as provided in subdivision (c) of Section 2703.
- (5) The Board of Vocational Nursing and Psychiatric Technicians.
- (6) The State Board of Optometry.
- (7) The California State Board of Pharmacy.
- (8) The Veterinary Medical Board.
- (9) The California Architects Board.
- (10) The Landscape Architect Technical Committee.
- (11) The Board for Professional Engineers and Land Surveyors.
- (12) The Contractors' State License Board.
- (13) The State Board of Guide Dogs for the Blind.
- (14) The Board of Behavioral Sciences.
- (15) The Court Reporters Board of California.
- (16) The State Athletic Commission.
- (17) The Osteopathic Medical Board of California.
- (18) The Respiratory Care Board of California.
- (19) The Acupuncture Board.
- (20) The Board of Psychology.

SEC. 2. Section 2701 is added to the Business and Professions Code, to read:

2701. (a) There is in the Department of Consumer Affairs the Board of Registered Nursing consisting of nine members.

(b) For purposes of this chapter, "board," or "the board," refers to the Board of Registered Nursing. Any reference in state law to the Board of Nurse Examiners of the State of California or the California Board of Nursing Education and Nurse Registration shall be construed to refer to the Board of Registered Nursing.

(c) The board shall have all authority vested in the previous board under this chapter. The board may enforce all disciplinary actions undertaken by the previous board.

(d) This section shall remain in effect only until January 1, 2016, and as of that date, is repealed, unless a later enacted statute that is enacted before January 1, 2016, deletes or extends that date. Notwithstanding any other provision of law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 3. Section 2702 of the Business and Professions Code is amended to read:

2702. (a) Each member of the board shall be a citizen of the United States and a resident of the State of California.

(b) Four members shall represent the public at large, and shall not be licensed under any board under this division or any board referred to in Section 1000 or 3600 and shall have no pecuniary interests in the provision of health care services.

(c) Two members shall be licensed registered nurses under the provisions of this chapter, each of whom shall be active in the practice of his or her profession engaged primarily in direct patient care with at least five continuous years of experience, and who shall not be engaged as an educator or administrator of a nursing education program under the provisions of this chapter.

(d) One member shall be a licensed registered nurse who shall be active as an advanced practice registered nurse as defined in Section 2725.5.

(e) One member shall be a licensed registered nurse under the provisions of this chapter who shall be active as an educator or administrator in an approved program to train registered nurses.

(f) One member shall be a licensed registered nurse who is an administrator of a nursing service with at least five continuous years of experience.

SEC. 4. Section 2703 of the Business and Professions Code is amended to read:

2703. (a) Except as provided in subdivision (c), all appointments shall be for a term of four years and vacancies shall be filled for the unexpired term. No person shall serve more than two consecutive terms.

(b) The Governor shall appoint two of the public members and the licensed members of the board qualified as provided in Section 2702. The Senate Committee on Rules and the Speaker of the Assembly shall each appoint a public member.

(c) The initial appointments shall be for the following terms:

(1) One public member appointed by the Governor shall serve a term of one year. The other public member appointed by the Governor shall serve a term of five years.

(2) One licensed member described in subdivision (c) of Section 2702 shall serve a term of two years. The other licensed member described in subdivision (c) of Section 2702 shall serve a term of three years. The licensed member described in subdivision (e) of Section 2702 shall serve a term of four years. Of the two remaining licensed members, one shall serve a term of two years, and the other shall serve a term of three years.

(3) Each public member appointed by the Senate Committee on Rules or the Speaker of the Assembly shall serve a term of four years.

SEC. 5. Section 2708 is added to the Business and Professions Code, to read:

2708. (a) The board shall appoint an executive officer who shall perform the duties delegated by the board and who shall be responsible to it for the accomplishment of those duties.

(b) The executive officer shall be a nurse currently licensed under this chapter and shall possess other qualifications as determined by the board.

(c) The executive officer shall not be a member of the board.

(d) Notwithstanding any other provision of law, the person serving on December 31, 2011, as executive officer of the board shall serve as an interim executive officer until the board appoints a permanent executive officer. The board may appoint this interim executive officer as the permanent executive officer.

(e) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 6. (a) Notwithstanding any other provision of law, the interagency agreement entered into between the Board of Registered Nursing and the Director of Consumer Affairs on December 14, 2011, shall be construed as valid, shall remain in force until the board is reconstituted, and shall not constitute a violation of Section 102.3 of the Business and Professions Code, the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code), or any other provision of law. The Legislature acknowledges the authority of the board and the department to have entered into the interagency agreement and hereby ratifies the agreement. All acts taken by the department pursuant to the interagency agreement are hereby authorized, confirmed, validated, and declared legally effective; however, this section shall not operate to authorize, confirm, validate, or legalize any act, proceeding, or other matter that, before the effective date of this act, has been determined in a legal proceeding to be illegal, void, or ineffective.

(b) The board may enforce all actions undertaken by the director pursuant to any powers authorized by the interagency agreement referred to in subdivision (a). The board may confirm the decisions and actions of the department taken pursuant to that interagency agreement; however, the failure to obtain a confirmation shall not affect the legality of the department's decisions and actions.

SEC. 7. Any action or proceeding challenging the validity of any matter authorized by this act shall be brought in accordance with, and within the timeframe specified in, Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.

SEC. 8. There is hereby appropriated to the Board of Registered Nursing created pursuant to Section 2 of this act the following sums for the purpose of administering the Nursing Practice Act (Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code):

(a) The unencumbered funds in the Board of Registered Nursing Fund that were appropriated to the Board of Registered Nursing in the Budget Act of 2011.

(b) The sum of one thousand dollars (\$1,000) from the money in the Board of Registered Nursing Fund that is not continuously appropriated pursuant to Section 207 of the Business and Professions Code.

SEC. 9. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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