

AMENDED IN ASSEMBLY JUNE 29, 2015

AMENDED IN SENATE APRIL 21, 2015

SENATE BILL

No. 467

Introduced by Senator Hill

February 25, 2015

An act to amend Sections 201, 5000, and 5015.6 of, and to add Sections 312.2, 328, and 5100.5 to, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 467, as amended, Hill. Professions and vocations.

Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing law authorizes the department to levy a pro rata share of the department's administrative expenses against any of these constituent agencies at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance.

This bill would eliminate the requirement that the levy described above be at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance, and would instead require the levy to be approved by the Legislature.

Existing law requires an agency within the department to investigate a consumer accusation or complaint against a licensee and, where appropriate, the agency is authorized to impose disciplinary action against a licensee. Under existing law, an agency within the department may refer a complaint to the Attorney General or Office of Administrative Hearings for further action.

This bill would require the Attorney General to submit a report to the department, the Governor, and the appropriate policy committees of the Legislature, on or before January 1, ~~2017~~, 2018, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to ~~accusations and cases~~ *accusation matters* relating to consumer complaints against a person whose profession or vocation is licensed by an agency within the department.

Existing law creates the Division of Investigation within the department and requires investigators who have the authority of peace officers to be in the division to investigate the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.

This bill would, in order to implement ~~specified complaint prioritization guidelines~~, *the Consumer Protection Enforcement Initiative of 2010*, require the Director of Consumer Affairs, through the Division of Investigation, to ~~work cooperatively with the health care boards to standardize implement~~ “*Complaint Prioritization Guidelines*” for boards to utilize in prioritizing their complaint and investigative workloads and to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

Under existing law, the California Board of Accountancy within the department is responsible for the licensure and regulation of accountants and is required to designate an executive officer. Existing law repeals these provisions on January 1, 2016.

This bill would extend the repeal date to January 1, 2020.

Existing law authorizes the California Board of Accountancy, after notice and hearing, to revoke, suspend, or refuse to renew any permit or certificate, as specified, or to censure the holder of that permit or certificate for unprofessional conduct.

This bill would additionally authorize the board, after notice and hearing, to permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a licence for unprofessional conduct. This bill would authorize a licensee to petition the board for reduction of penalty or reinstatement of the privilege, as specified, and would provide that failure to comply with any restriction or limitation imposed by the board is grounds for revocation of the license.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 201 of the Business and Professions Code
2 is amended to read:

3 201. (a) (1) A charge for the estimated administrative expenses
4 of the department, not to exceed the available balance in any
5 appropriation for any one fiscal year, may be levied in advance on
6 a pro rata share basis against any of the boards, bureaus,
7 commissions, divisions, and agencies, with the approval of the
8 Legislature.

9 (2) The department shall submit a report of the accounting of
10 the pro rata calculation of administrative expenses to the
11 appropriate policy committees of the Legislature on or before July
12 1, 2015, and on or before July 1 of each subsequent year.

13 (b) The department shall conduct a one-time study of its current
14 system for prorating administrative expenses to determine if that
15 system is the most productive, efficient, and cost-effective manner
16 for the department and the agencies comprising the department.
17 The study shall include consideration of whether some of the
18 administrative services offered by the department should be
19 outsourced or charged on an as-needed basis and whether the
20 agencies should be permitted to elect not to receive and be charged
21 for certain administrative services. The department shall include
22 the findings in its report pursuant to paragraph (2) of subdivision
23 (a) that it is required to submit on or before July 1, 2015.

24 SEC. 2. Section 312.2 is added to the Business and Professions
25 Code, to read:

26 312.2. (a) The Attorney General shall submit a report to the
27 department, the Governor, and the appropriate policy committees
28 of the Legislature on or before January 1, ~~2017~~, 2018, and on or
29 before January 1 of each subsequent year that includes, at a
30 minimum, all of the following for the previous fiscal ~~year~~: *year*
31 *for each constituent entity within the department represented by*
32 *the Licensing Section and Health Quality Enforcement Section of*
33 *the Office of the Attorney General:*

34 (1) The number of ~~cases~~ *accusation matters* referred to the
35 ~~Attorney General by each constituent entity within the department.~~
36 *Attorney General.*

1 (2) The number of cases referred by the Attorney General back
2 to each constituent entity with no further action: *accusation matters*
3 *rejected for filing by the Attorney General.*

4 (3) The number of cases rereferred by a constituent entity to the
5 Attorney General after each constituent entity or the Division of
6 Investigation completes a supplemental investigation: *accusation*
7 *matters for which further investigation was requested by the*
8 *Attorney General.*

9 (4) *The number of accusation matters for which further*
10 *investigation was received by the Attorney General.*

11 (4)
12 (5) The number of accusations filed by each constituent entity.

13 (5)
14 (6) The number of accusations a constituent entity withdraws.

15 (7) *The number of accusation matters adjudicated by the*
16 *Attorney General.*

17 (b) *The Attorney General shall also report all of the following*
18 *for accusation matters adjudicated within the previous fiscal year*
19 *for each constituent entity of the department represented by the*
20 *Licensing Section and Health Quality Enforcement Section:*

21 (6)
22 (1) The average number of days from the Attorney General
23 receiving a case to filing an accusation on behalf of each an
24 accusation referral to when an accusation is filed by the constituent
25 entity.

26 (7)
27 (2) The average number of days to prepare an accusation for a
28 case that is rereferred to the Attorney General after a supplemental
29 further investigation is conducted by staff of received by the
30 Attorney General from a constituent entity or the Division of
31 Investigation for each constituent entity: *Division of Investigation.*

32 (8)
33 (3) The average number of days from an agency filing an
34 accusation to the Attorney General transmitting a stipulated
35 settlement for each to the constituent entity.

36 (9)
37 (4) The average number of days from an agency filing an
38 accusation to the Attorney General transmitting a default decision
39 for each to the constituent entity.

40 (10)

1 (5) The average number of days from *an agency* filing an
2 accusation to ~~scheduling a hearing for each constituent entity~~; *the*
3 *Attorney General requesting a hearing date from the Office of*
4 *Administrative Hearings.*

5 ~~(11)~~

6 (6) The average number of days from ~~scheduling a hearing to~~
7 ~~conducting a hearing for each constituent entity~~; *the Attorney*
8 *General's receipt of a hearing date from the Office of*
9 *Administrative Hearings to the commencement of a hearing.*

10 ~~(b)~~

11 (c) A report to be submitted pursuant to subdivision (a) shall
12 be submitted in compliance with Section 9795 of the Government
13 Code.

14 SEC. 3. Section 328 is added to the Business and Professions
15 Code, to read:

16 328. In order to implement the ~~complaint prioritization~~
17 ~~guidelines as described in the memorandum dated August 31,~~
18 ~~2009, by Brian J. Stiger titled "Complaint Prioritization Guidelines~~
19 ~~for Health Care Agencies,"~~ *Consumer Protection Enforcement*
20 *Initiative of 2010*, the director, through the Division of
21 Investigation, ~~shall work cooperatively with the health care boards~~
22 ~~to standardize~~ *shall implement "Complaint Prioritization*
23 *Guidelines" for boards to utilize in prioritizing their respective*
24 *complaint and investigative workloads. The guidelines shall be*
25 *used to determine the referral of complaints to the division and*
26 *those that are retained by the health care boards for investigation.*

27 SEC. 4. Section 5000 of the Business and Professions Code is
28 amended to read:

29 5000. (a) There is in the Department of Consumer Affairs the
30 California Board of Accountancy, which consists of 15 members,
31 7 of whom shall be licensees, and 8 of whom shall be public
32 members who shall not be licentiates of the board or registered by
33 the board. The board has the powers and duties conferred by this
34 chapter.

35 (b) The Governor shall appoint four of the public members, and
36 the seven licensee members as provided in this section. The Senate
37 Committee on Rules and the Speaker of the Assembly shall each
38 appoint two public members. In appointing the seven licensee
39 members, the Governor shall appoint individuals representing a
40 cross section of the accounting profession.

1 (c) This section shall remain in effect only until January 1, 2020,
2 and as of that date is repealed, unless a later enacted statute, that
3 is enacted before January 1, 2020, deletes or extends that date.

4 (d) Notwithstanding any other provision of law, the repeal of
5 this section renders the board subject to review by the appropriate
6 policy committees of the Legislature. However, the review of the
7 board shall be limited to reports or studies specified in this chapter
8 and those issues identified by the appropriate policy committees
9 of the Legislature and the board regarding the implementation of
10 new licensing requirements.

11 SEC. 5. Section 5015.6 of the Business and Professions Code
12 is amended to read:

13 5015.6. The board may appoint a person exempt from civil
14 service who shall be designated as an executive officer and who
15 shall exercise the powers and perform the duties delegated by the
16 board and vested in him or her by this chapter.

17 This section shall remain in effect only until January 1, 2020,
18 and as of that date is repealed, unless a later enacted statute, that
19 is enacted before January 1, 2020, deletes or extends that date.

20 SEC. 6. Section 5100.5 is added to the Business and Professions
21 Code, to read:

22 5100.5. (a) After notice and hearing the board may, for
23 unprofessional conduct, permanently restrict or limit the practice
24 of a licensee or impose a probationary term or condition on a
25 license, which prohibits the licensee from performing or engaging
26 in any of the acts or services described in Section 5051.

27 (b) A licensee may petition the board pursuant to Section 5115
28 for reduction of penalty or reinstatement of the privilege to engage
29 in the service or act restricted or limited by the board.

30 (c) The authority or sanctions provided by this section are in
31 addition to any other civil, criminal, or administrative penalties or
32 sanctions provided by law, and do not supplant, but are cumulative
33 to, other disciplinary authority, penalties, or sanctions.

34 (d) Failure to comply with any restriction or limitation imposed
35 by the board pursuant to this section is grounds for revocation of
36 the license.

37 (e) For purposes of this section, both of the following shall
38 apply:

39 (1) “Unprofessional conduct” includes, but is not limited to,
40 those grounds for discipline or denial listed in Section 5100.

- 1 (2) “Permanently restrict or limit the practice of” includes, but
- 2 is not limited to, the prohibition on engaging in or performing any
- 3 attestation engagement, audits, or compilations.

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