

Item: 2024 Legislation of Interest

Item Summary: Following are updates on bills for which the Board has already taken positions.

TWO-YEAR BILLS

AB 477 (Waldron) - Board Position: WATCH

Title: Legislative review of state boards.

Status: This bill has died.

Existing law requires the Joint Sunset Review Committee to review eligible agencies and prepare a report that is made available to the public and the Legislature on whether the agency should be terminated, or continued, or whether its functions should be revised or consolidated with those of another agency, as specified. This bill would require the report prepared by the committee to be made available to the public online.

AB 996 (Low) - Board Position: WATCH

Title: Department of Consumer Affairs: continuing education: conflict-of-interest policy.

Status: Amended on 06/10/2024, and is no longer of interest to the Board.

Existing law provides for the licensure and regulation of professions and vocations by entities within the Department of Consumer Affairs. Under existing law, several of these entities may require licensees to satisfy continuing education course requirements, including, among others, licensed physicians and surgeons licensed by the Medical Board of California and certified public accountants and public accountants licensed by the California Board of Accountancy.

This bill would require those entities to develop and maintain a conflict-of-interest policy that, at minimum, discourages the qualification of any continuing education course if the provider of that course has an economic interest in a commercial product or enterprise directly or indirectly promoted in that course and requires conflicts to be disclosed at the beginning of each continuing education course.

SB 802 (Roth) - Board Position: WATCH

Title: Licensing boards: disqualification from licensure: criminal conviction.

Status: This bill has died.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law authorizes a board to deny a license on the grounds that the applicant or licensee has been subject to formal discipline, as specified, or convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, as specified. Existing law requires a board to notify the applicant in writing, as specified, if a board decides to deny an application for licensure based solely or in part on the applicant's conviction history.

If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, this bill would require a board to notify the applicant in writing within 30 days after a decision is made, as specified.

INTRODUCED IN 2024

AB 1891 (Weber) - Staff Recommended Position: WATCH

Title: Community colleges: allied health programs

Status: 09/22/24: Approved by the Governor [Chapter 362, Statutes of 2024]

Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law establishes community college districts throughout the state, under the administration of community college district governing boards, and authorizes these districts to provide instruction at the community college campuses they operate.

This bill would authorize a community college allied health program, as defined, if, after using an approved diagnostic assessment tool, it determines that the number of applicants to the program exceeds its capacity, to use additional multi-criteria screening measures. The bill would authorize a community college allied health program to use any diagnostic assessment tool that is commonly used in allied health programs and is approved by the Chancellor of the California Community Colleges. The bill would prohibit a community college district from excluding an applicant to an allied health program on the basis that the applicant is not a resident of that district or has not completed prerequisite courses in that district, and from implementing policies, procedures, and systems that have the effect of excluding an applicant or student who is not a resident of that district from the district's allied health program.

This bill would authorize a community college allied health program that determines the number of applicants exceeds its capacity to admit students in accordance with the administration of a multi-criteria screening process, a random selection process, or a blended combination of random selection and a multi-criteria screening process. The bill would require a community college allied health program that elects to use a multi-criteria screening process, including a blended combination of random selection and a multi-criteria screening process, to evaluate applicants for admission using specified criteria relating to the applicant's academic performance, work or volunteer experience, foreign language skills, life experiences, and special circumstances, among other criteria. The bill would authorize a community college allied health program using a multi-criteria screening process to use an approved diagnostic assessment tool before, during, or after the multi-criteria screening process. The bill would require a community college allied health program that uses a multi-criteria screening process to report its allied health program admissions policies to the chancellor annually, in writing. The bill would require the chancellor to submit a report, on or before March 1, 2026, and each March 1 thereafter, to the Legislature and the Governor that examines and includes certain information, including the participation, retention, and completion rates in community college allied health programs of students admitted through a multi-criteria screening process, as specified. This bill would repeal its provisions on January 1, 2030.

AB 2269 (Flora) - Staff Recommended Position: WATCH

Title: Board membership qualifications: public members.

Status: 07/01/24: Hearing cancelled at the request of the author.

Existing law establishes specified boards, bureaus, and commissions in the Department of Consumer Affairs for the purpose of licensing and regulating various professions and vocations. Existing law prohibits a public member or a lay member appointed to a board, as defined, from, among other things, having a specified relationship with a licensee of that board within 5 years of the public member's or lay member's appointment.

This bill would prohibit a public member or a lay member of any board from having a specified relationship with a licensee of that board, for services provided pursuant to that license, within 3 years of the public member's or lay member's appointment. The bill would provide that these requirements apply to a public member or a lay member of a board upon appointment or reappointment on or after January 1, 2025.

AB 2862 (Gipson) - Staff Recommended Position: OPPOSE UNLESS AMENDED

Title: Licenses: African American applicants

Status: 07/01/24: Hearing cancelled at the request of the author.

Existing law prescribes requirements for licensure and regulation of various businesses and professions, including healing arts and real estate businesses and professions, by various boards, bureaus, commissions, committees, and departments.

This bill would require boards to prioritize African American applicants seeking licenses under these provisions, especially applicants who are descended from a person enslaved in the United States.

AB 3127 (McKinnor) - Staff Recommended Position: OPPOSE

Title: Reporting of crimes: mandated reporters

Status: 08/15/24: Held under submission.

Existing law requires a health practitioner, as defined, to make a report to law enforcement when they suspect a patient has suffered physical injury that is either self-inflicted, caused by a firearm, or caused by assaultive or abusive conduct, including elder abuse, sexual assault, or torture. A violation of these provisions is punishable as a misdemeanor.

This bill would remove the requirement that a health practitioner make a report to law enforcement when they suspect a patient has suffered physical injury caused by assaultive or abusive conduct. The bill would instead require that a health practitioner make a report when the injury is life threatening or results in death, or is the result of child abuse or elder or dependent adult abuse. The bill would require the health practitioner to additionally make a report when a person is seeking care for injuries related to domestic, sexual, or any nonaccidental violent injury if the patient requests a report be sent, as specified. The bill would also require a health practitioner who suspects that a patient has suffered physical injury that is caused by domestic violence, as defined, to provide brief counseling and a referral to local and national domestic violence or sexual violence advocacy services, as specified.

SB 1067 (Smallwood-Cuevas) - Staff Recommended Position: WATCH

Title: Healing arts: expedited licensure process: medically underserved area or population.

Status: 09/27/24: Vetoed by the Governor

Existing law establishes various boards within the Department of Consumer Affairs to license and regulate various health professionals. Existing law requires specified boards to expedite the licensure process of an applicant who can demonstrate that they intend to provide abortions within their scope of practice and specifies the documentation an applicant is required to provide to demonstrate their intent.

This bill would require the Board of Behavioral Sciences, the Board of Registered Nursing, the Board of Vocational Nursing and Psychiatric Technicians of the State of California, the California State Board of Pharmacy, the Dental Board of California, the Dental Hygiene Board of California, the Podiatric Medical Board of California, and the Physician Assistant Board to develop a process to expedite the licensure process by giving priority review status to the application of an applicant for a license who demonstrates that they intend to practice in a medically underserved area or in a health professional shortage area, as reflected in a specified federal database, or serve a medically underserved population, as defined, and who meets specified requirements for the expedited licensure process. The bill would require an applicant for a license to demonstrate their intent to practice in a medically underserved area or in a health professional shortage area, or serve a medically underserved population, by providing a letter addressed to the applicable board from an employer that includes prescribed information. The bill would require the employer to include a written statement, signed and dated by an authorized representative of the employer, on the employer letterhead, declaring that the information provided in the letter to the board is true and correct. Under the bill, no criminal or civil penalty would be imposed for a violation of that requirement. The bill would become operative on March 1, 2025. The bill would repeal these provisions on January 1, 2029.

SB 1451 (Ashby) - Staff Recommended Position: SUPPORT

Title: Professions and Vocations

Status: 09/22/24: Approved by the Governor [Chapter 481, Statutes of 2024]

Existing law, the Respiratory Care Practice Act, establishes the Respiratory Care Board of California to license and regulate the practice of respiratory care. Existing law authorizes a licensed vocational nurse who is employed by a home health agency to perform respiratory tasks and services identified by the board if, on or before January 1, 2025, the licensed vocational nurse has completed patient-specific training satisfactory to their employer, and, on and after January 1, 2025, the licensed vocational nurse has completed that training in accordance with guidelines promulgated by the Respiratory Care Board of California, in collaboration with the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

This bill would extend those dates to January 1, 2028. The bill, on and after January 1, 2028, would also authorize a licensed vocational nurse to perform respiratory care services identified by the board while practicing in certain settings identified in the bill if the license vocational nurse has completed patient-specific training satisfactory to their employer and holds a current and valid certification of competency for each respiratory task to be performed, as specified.

This is the Board sponsored legislation to carve out the additional exemption authorizing LVNs, with specified training, to perform tasks beyond basic respiratory tasks in the home and community-based settings where it is unfeasible to employ a respiratory care practitioner.

Senate Bill No. 1451

CHAPTER 481

An act to amend Sections 115.4, 115.5, 115.6, 135.4, 1926, 2054, 2837.101, 2837.103, 2837.104, 2837.105, 3765, 4052.04, 4602, 4621, 7423, 8593, 8593.1, 9880.1, and 19237 of, to add Sections 2097.5, 4069, and 9880.5 to, and to repeal Section 1905.2 of, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 22, 2024. Filed with
Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1451, Ashby. Professions and vocations.

(1) Existing law establishes the Department of Consumer Affairs, which is composed of boards that license and regulate various professions. Existing law imposes certain requirements on those boards to expedite licensure processes, waive specified licensing fees, or issue temporary licenses, depending on the criteria that the applicant satisfies. One of those provisions requires, among other things, the applicant to be, or to have been, an active duty member of the Armed Forces of the United States, as specified. Another provision requires that the applicant hold an out-of-state license in that profession or vocation and be married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces, as specified. Under a third provision's criteria, the applicant must have been admitted to the United States as a refugee, have been granted asylum, or have a special immigrant visa, as specified.

This bill would specify that the term "applicant," for purposes of the above-described provisions, refers to an applicant for an individual license and does not refer to applicants for business or entity licenses. The bill would prohibit a board from charging a fee for the issuance of a temporary license for an applicant who holds an out-of-state license in that profession or vocation and who is married to, or in a domestic partnership or other legal union with, an active duty member of the Armed Forces, as specified. The bill would make conforming changes.

(2) Existing law, the Dental Practice Act, establishes the Dental Hygiene Board of California to license and regulate dental hygienists. Existing law requires the dental hygiene board to submit recommendations regarding dental hygiene scope of practice issues to the Dental Board of California for approval, modification, or rejection, and authorizes the dental hygiene board to request the dental board to provide its reasons in writing for rejecting or significantly modifying the recommendation. Existing law authorizes a registered dental hygienist in alternative practice to perform specified duties in dental health professional shortage areas, as certified by

not sufficiently validated by the national nurse practitioner board certification examination required by subparagraph (A) of paragraph (1) of subdivision (a) of Section 2837.103, the board shall identify and develop a supplemental exam that properly validates identified competencies.

(b) The examination process shall be regularly reviewed pursuant to Section 139.

SEC. 13. Section 3765 of the Business and Professions Code is amended to read:

3765. This act does not prohibit any of the following activities:

(a) The performance of respiratory care that is an integral part of the program of study by students enrolled in approved respiratory therapy training programs.

(b) Self-care by the patient or the gratuitous care by a friend or member of the family who does not represent or hold themselves out to be a respiratory care practitioner licensed under the provisions of this chapter.

(c) The respiratory care practitioner from performing advances in the art and techniques of respiratory care learned through formal or specialized training.

(d) The performance of respiratory care in an emergency situation by paramedical personnel who have been formally trained in these modalities and are duly licensed under the provisions of an act pertaining to their specialty.

(e) Temporary performance, by other health care personnel, students, or groups, of respiratory care services, as identified and authorized by the board, in the event of an epidemic, pandemic, public disaster, or emergency.

(f) Persons from engaging in cardiopulmonary research.

(g) Formally trained licensees and staff of child day care facilities from administering to a child inhaled medication as defined in Section 1596.798 of the Health and Safety Code.

(h) The performance by a person employed by a home medical device retail facility or by a home health agency licensed by the State Department of Public Health of specific, limited, and basic respiratory care or respiratory care-related services that have been authorized by the board.

(i) The performance, by a vocational nurse licensed by the Board of Vocational Nursing and Psychiatric Technicians of the State of California who is employed by a home health agency licensed by the State Department of Public Health, of respiratory tasks and services identified by the board, if the licensed vocational nurse complies with the following:

(1) Before January 1, 2028, the licensed vocational nurse has completed patient-specific training satisfactory to their employer.

(2) On or after January 1, 2028, the licensed vocational nurse has completed patient-specific training by the employer in accordance with guidelines that shall be promulgated by the board no later than January 1, 2028, in collaboration with the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(j) The performance of respiratory care services identified by the board by a licensed vocational nurse who satisfies the requirements in paragraph (1) in the settings listed in paragraph (2).

(1) (A) The licensed vocational nurse is licensed pursuant to Chapter 6.5 (commencing with Section 2840).

(B) The licensed vocational nurse has completed patient-specific training satisfactory to their employer.

(C) The licensed vocational nurse holds a current and valid certification of competency for each respiratory task to be performed from the California Association of Medical Product Suppliers, the California Society for Respiratory Care, or another organization identified by the board.

(2) A licensed vocational nurse may perform the respiratory care services identified by the board pursuant to this subdivision in the following settings:

(A) At a congregate living health facility licensed by the State Department of Public Health that is designated as six beds or fewer.

(B) At an intermediate care facility licensed by the State Department of Public Health that is designated as six beds or fewer.

(C) At an adult day health care center licensed by the State Department of Public Health.

(D) As an employee of a home health agency licensed by the State Department of Public Health or an individual nurse provider working in a residential home.

(E) At a pediatric day health and respite care facility licensed by the State Department of Public Health.

(F) At a small family home licensed by the State Department of Social Services that is designated as six beds or fewer.

(G) As a private duty nurse as part of daily transportation and activities outside a patient's residence or family respite for home- and community-based patients.

(3) This subdivision is operative on January 1, 2028.

(k) The performance of pulmonary function testing by persons who are currently employed by Los Angeles County hospitals and have performed pulmonary function testing for at least 15 years.

SEC. 14. Section 4052.04 of the Business and Professions Code is amended to read:

4052.04. (a) In addition to the authority provided in Section 4052, a pharmacist may furnish COVID-19 oral therapeutics following a positive test for SARS-CoV-2, the virus that causes COVID-19.

(b) Prior to furnishing COVID-19 oral therapeutics pursuant to subdivision (a), a pharmacist shall utilize relevant and appropriate evidence-based clinical guidelines published by the federal Food and Drug Administration in providing these patient care services.

(c) A pharmacist who furnishes COVID-19 oral therapeutics shall 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. If the patient does not have a primary care provider, the pharmacist shall provide the patient with a written record of