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SB-467 Professions and vocations. (2015-2016)

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Senate Bill No. 467

CHAPTER 656

An act to amend Sections 5000, 5015.6, 7000.5, 7011, and 7071.6 of, to add Sections 312.2, 328, and 5100.5 to, and to repeal Section 7067.5 of, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor October 08, 2015. Filed with Secretary of State October 08, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 467, 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 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, 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 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 commence directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.

This bill would, in order to implement the Consumer Protection Enforcement Initiative of 2010, require the Director of Consumer Affairs, through the Division of Investigation, to 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. The bill would exempt the Medical Board of California from required utilization of these guidelines.

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 license for unprofessional conduct. This bill would authorize a licensee to petition the board for reduction of a 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.

Under existing law, the Contractors' State License Law, the Contractors' State License Board is responsible for the licensure and regulation of contractors and is required to appoint a registrar of contractors. Existing law repeals these provisions establishing the board and requiring it to appoint a registrar on January 1, 2016.

This bill would extend these repeal dates to January 1, 2020.

Existing law requires every applicant for an original contractor's license, the reactivation of an inactive license, or the reissuance or reinstatement of a revoked license to evidence financial solvency, as specified, and requires the registrar to deny the application of any applicant who fails to comply with that requirement. Existing law, as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, requires the applicant or licensee to file or have on file a contractor's bond in the sum of \$12,500.

This bill would repeal that evidence of financial solvency requirement and would instead require that bond to be in the sum of \$15,000.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 312.2 is added to the Business and Professions Code, to read:

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

- (1) The number of accusation matters referred to the Attorney General.
- (2) The number of accusation matters rejected for filing by the Attorney General.
- (3) The number of accusation matters for which further investigation was requested by the Attorney General.
- (4) The number of accusation matters for which further investigation was received by the Attorney General.
- (5) The number of accusations filed by each constituent entity.
- (6) The number of accusations a constituent entity withdraws.
- (7) The number of accusation matters adjudicated by the Attorney General.

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

- (1) The average number of days from the Attorney General receiving an accusation referral to when an accusation is filed by the constituent entity.
- (2) The average number of days to prepare an accusation for a case that is rereferred to the Attorney General after further investigation is received by the Attorney General from a constituent entity or the Division of Investigation.
- (3) The average number of days from an agency filing an accusation to the Attorney General transmitting a stipulated settlement to the constituent entity.
- (4) The average number of days from an agency filing an accusation to the Attorney General transmitting a default decision to the constituent entity.
- (5) The average number of days from an agency filing an accusation to the Attorney General requesting a hearing date from the Office of Administrative Hearings.
- (6) The average number of days from the Attorney General's receipt of a hearing date from the Office of Administrative Hearings to the commencement of a hearing.

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

SEC. 2. Section 328 is added to the Business and Professions Code, to read:

328. (a) In order to implement the Consumer Protection Enforcement Initiative of 2010, the director, through the Division of Investigation, shall implement "Complaint Prioritization Guidelines" for boards to utilize in prioritizing their respective complaint and investigative workloads. The guidelines shall be used to determine the referral of complaints to the division and those that are retained by the health care boards for investigation.

(b) The Medical Board of California shall not be required to utilize the guidelines implemented pursuant to subdivision (a).

SEC. 3. Section 5000 of the Business and Professions Code is amended to read:

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

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

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

(d) 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. However, the review of the board shall be limited to reports or studies specified in this chapter and those issues identified by the appropriate policy committees of the Legislature and the board regarding the implementation of new licensing requirements.

SEC. 4. Section 5015.6 of the Business and Professions Code is amended to read:

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

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

SEC. 5. Section 5100.5 is added to the Business and Professions Code, to read:

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

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

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

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

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

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

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

SEC. 6. Section 7000.5 of the Business and Professions Code is amended to read:

7000.5. (a) There is in the Department of Consumer Affairs a Contractors' State License Board, which consists of 15 members.

(b) 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.

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

SEC. 7. Section 7011 of the Business and Professions Code is amended to read:

7011. (a) The board, by and with the approval of the director, shall appoint a registrar of contractors and fix his or her compensation.

(b) The registrar shall be the executive officer and secretary of the board and shall carry out all of the administrative duties as provided in this chapter and as delegated to him or her by the board.

(c) For the purpose of administration of this chapter, there may be appointed a deputy registrar, a chief reviewing and hearing officer, and, subject to Section 159.5, other assistants and subordinates as may be necessary.

(d) Appointments shall be made in accordance with the provisions of civil service laws.

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

SEC. 8. Section 7067.5 of the Business and Professions Code is repealed.

SEC. 9. Section 7071.6 of the Business and Professions Code is amended to read:

7071.6. (a) The board shall require as a condition precedent to the issuance, reinstatement, reactivation, renewal, or continued maintenance of a license, that the applicant or licensee file or have on file a contractor's bond in the sum of fifteen thousand dollars (\$15,000).

(b) Excluding the claims brought by the beneficiaries specified in subdivision (a) of Section 7071.5, the aggregate liability of a surety on claims brought against a bond required by this section shall not exceed the sum of seven thousand five hundred dollars (\$7,500). The bond proceeds in excess of seven thousand five hundred dollars (\$7,500) shall be reserved exclusively for the claims of the beneficiaries specified in subdivision (a) of Section 7071.5. However, nothing in this section shall be construed so as to prevent any beneficiary specified in subdivision (a) of Section 7071.5 from claiming or recovering the full measure of the bond required by this section.

(c) No bond shall be required of a holder of a license that has been inactivated on the official records of the board during the period the license is inactive.

(d) Notwithstanding any other law, as a condition precedent to licensure, the board may require an applicant to post a contractor's bond in twice the amount required pursuant to subdivision (a) until the time that the license is renewed, under the following conditions:

(1) The applicant has either been convicted of a violation of Section 7028 or has been cited pursuant to Section 7028.7.

(2) If the applicant has been cited pursuant to Section 7028.7, the citation has been reduced to a final order of the registrar.

(3) The violation of Section 7028, or the basis for the citation issued pursuant to Section 7028.7, constituted a substantial injury to the public.