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AB-3255 Vocational nursing and psychiatric technicians: sunset: licensure. (2023-2024)

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Assembly Bill No. 3255

CHAPTER 590

An act to amend Sections 2841, 2846, 2847.1, 2881.2, 2881.3, 2883, 4501, 4503, 4531.1, 4531.2, and 4532 of, and to add Sections 2892.8 and 4545.4 to, the Business and Professions Code, relating to healing arts.

[Approved by Governor September 25, 2024. Filed with Secretary of State September 25, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3255, Berman. Vocational nursing and psychiatric technicians: sunset: licensure.

Existing law establishes the Board of Vocational Nursing and Psychiatric Technicians of the State of California within the Department of Consumer Affairs and, until January 1, 2025, tasks the board with various licensing, regulatory, and disciplinary functions related to vocational nurses and psychiatric technicians under the Vocational Nursing Practice Act and the Psychiatric Technicians Law, respectively. Existing law, until January 1, 2025, requires the board to select an executive officer to perform duties as are delegated by the board, as specified. Existing law makes a violation of either the Vocational Nursing Practice Act or the Psychiatric Technicians Law a misdemeanor.

This bill would extend the operation of the above provisions to January 1, 2029. By extending the operation of an existing crime, the bill would impose a state-mandated local program.

Existing law requires the board to annually elect from its members a president, vice president, and other officers as it may deem necessary.

This bill would instead require the board to biennially elect those officers from its members.

Existing law, until January 1, 2025, sets forth an approval process for a vocational nursing school or program or a school or program for psychiatric technicians to be consistent with specified timelines. Under that timeline, existing law requires the board, upon receipt of a letter of intent to submit an application for approval as a school or program of licensed vocational nursing or a school or program for psychiatric technicians, to notify the proposed school or program of the steps in the approval process and provide an estimated wait time until active assignment to a nursing education consultant. Existing law requires a school or program seeking board approval to respond to the board within 2 weeks of each inquiry or request during all phases. Existing law designates a school or program as inactive if it does not respond within 2 weeks or fails to pay the required fees.

This bill would extend the operation of those provisions setting forth the approval process to January 1, 2029. The bill would clarify the above-described board notification requirement is contingent on the board receiving a letter of intent that is complete. If a vocational nursing school or program or a school or program for psychiatric technicians fails to submit a complete letter of intent, as specified, the bill would require the school or program to be taken out of consideration and would prohibit it from reapplying for 6 months. The bill would also clarify that the requirement that the school or program seeking board approval respond, within 2 weeks, to the board's inquiries or requests is applicable during all phases of the application process after the

school or program has submitted an initial application for approval, as specified. The bill would expand the grounds on which a school or program is designated as inactive to include failing to submit documentation required by the board in time.

Existing law requires the board to inspect or review all schools of vocational nursing and psychiatric technician schools in this state, as specified, and to approve schools that meet the requirements provided by the board. If the board determines that any approved school is not maintaining the standard required by the board, existing law requires the board to immediately give notice in writing specifying the defect. Existing law authorizes the removal of the school from the approved list if the school does not correct the defect within a reasonable time.

This bill would authorize the board, after establishing regulations for this purpose, to issue a citation and assess a fine, as specified, if a vocational nursing school or program or a school or program for psychiatric technicians is not maintaining the required standard. If a school or program does not remit the assessed fine within 30 days, the bill would authorize the board to place it on provisional approval for up to 6 months or remove it from the approved school or program list, as specified. The bill would prohibit a school or program that is removed from the approved list from applying for approval for 12 months. The bill would clarify that these provisions apply to any vocational nursing school or program.

Existing law prescribes various fees in connection with the issuance of licenses under the Vocational Nursing Practice Act and Psychiatric Technicians Law. Existing law makes a license under the Vocational Nursing Practice Act expire after 2 years if not renewed, and makes a license under the Psychiatric Technicians Law expire each year on the date prescribed by the board if not renewed. Existing law under both the Vocational Nursing Practice Act and Psychiatric Technicians Law authorizes an expired license to be renewed at any time within 4 years after its expiration upon filing of an application for renewal and payment of certain fees, as specified.

This bill would, upon application and payment of a prescribed fee, require the board to issue a retired license to a licensee under either the Vocational Nursing Practice Act or the Psychiatric Technicians Law if the licensee holds an unrestricted license on the date of application. The bill would exempt a retired licensee from continuing education requirements and would prohibit a retired licensee from being entitled to practice vocational nursing or to practice as a psychiatric technician. The bill would authorize the board to reinstate a retired license to active status if the retired licensee fulfills certain requirements for renewal of a license, including furnishing fingerprints, paying renewal fees, and providing evidence of certain qualifications.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

SECTION 1. Section 2841 of the Business and Professions Code is amended to read:

2841. (a) There is in the Department of Consumer Affairs a Board of Vocational Nursing and Psychiatric Technicians of the State of California, which consists of 11 members.

(b) As used in this chapter, "board" means the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(c) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 2. Section 2846 of the Business and Professions Code is amended to read:

2846. The board at its first meeting after appointment, and biennially thereafter at its first meeting in every second year, shall elect from its members a president, vice president, and such other officers as it may deem necessary. The officers of the board shall hold their respective positions during its pleasure.

SEC. 3. Section 2847.1 of the Business and Professions Code is amended to read:

2847.1. (a) Except as provided in subdivision (f), the board shall select an executive officer who shall perform duties as are delegated by the board and who shall be responsible to it for the accomplishment of those duties.

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

(c) With the approval of the Director of Finance, the board shall fix the salary of the executive officer.

(d) The executive officer shall be entitled to traveling and other necessary expenses in the performance of their duties. The executive officer shall make a statement, certified before a duly authorized person, that the expenses have been actually incurred.

(e) Commencing January 1, 2018, the executive officer appointed by the board pursuant to subdivision (a) is abolished. Thereafter, until January 1, 2022, the executive officer shall be appointed as set forth in Section 2847.3.

(f) Commencing January 1, 2022, the executive officer shall, again, be selected by the board as set forth in subdivision (a), except that any executive officer in office on December 31, 2021, shall continue in the position as executive officer of the board until the position is vacated or the board selects another executive officer.

(g) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 4. Section 2881.2 of the Business and Professions Code is amended to read:

2881.2. (a) The approval process for a school or program shall be consistent with the following timelines:

(1) (A) Upon receipt of a complete letter of intent to submit an application for approval as a school or program of licensed vocational nursing, the board shall notify the proposed school or program of the steps in the approval process and provide an estimated wait time until active assignment to a nursing education consultant.

(B) A vocational nursing school or program that fails to submit a complete letter of intent within 30 days from the date the board notifies the school or program of deficiencies shall be taken out of consideration for approval as a new school or program and may only reapply after six months.

(C) Upon active assignment of a nursing education consultant, the school or program shall submit an initial application for approval within 60 days.

(2) (A) Within 30 days of the date the board receives an initial application for approval, the board shall notify the school or program whether the application is complete.

(B) A notice that an initial application is not complete shall specify what additional documents or payment of fees the school or program is required to submit to the board to make the application complete.

(3) Within 60 days from the date the board notifies the school or program that the initial application is not complete, the school or program shall provide the missing information. If a school or program fails to submit the required information, the board shall take the application out of consideration consistent with subdivision (c) of Section 2881.3.

(4) Within six months of the date the board receives an initial application for approval as a school or program, the board shall approve the school or program, deny approval, or notify the school or program that corrective action is required.

(b) A school or program of vocational nursing seeking approval by the board shall remit to the board for deposit in the Vocational Nursing and Psychiatric Technicians Fund fees in accordance with the following schedule:

(1) The nonrefundable initial application fee shall be in an amount equal to the reasonable costs incurred by the board in reviewing and processing the application up to five thousand dollars (\$5,000).

(2) (A) Except as provided in subparagraph (B), the final approval fee shall be in an amount equal to the reasonable costs incurred by the board in the application approval process up to fifteen thousand dollars (\$15,000).

(B) The final approval fee for an applicant program that meets both of the following criteria shall be in an amount equal to the reasonable costs incurred by the board in the application approval process up to five thousand dollars (\$5,000):

(i) The program is affiliated with an approved school or program that is in good standing.

(ii) The program utilizes the curriculum and policies approved by the board for the approved school or program.

(3) The continuing approval fee shall be in an amount equal to the reasonable costs incurred by the board in providing oversight and review of a school or program up to five thousand dollars (\$5,000) once every four years.

(c) If the board makes an initial determination that the cost of providing oversight and review of a school or program under this section is less than the amount of any fees required to be paid by that school or program, the board shall decrease the fees applicable to that institution to an amount that is proportional to the board's reasonable costs associated with that school or program.

(d) The board may reduce the continuing approval fees, by no more than one-half of the established fee, for a program that experiences a reduction in enrollment capacity that directly leads to a reduction in state funding. The board shall require a program to provide documentation for the purposes of issuing the fee reduction.

(e) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 5. Section 2881.3 of the Business and Professions Code is amended to read:

2881.3. (a) The board shall maintain a list of inactive vocational nursing schools and programs seeking board approval.

(b) A vocational nursing school or program seeking board approval shall respond to the board within two weeks of each inquiry or request during all phases of the application process after the school or program has submitted an initial application for approval pursuant to Section 2881.2. A school or program that does not respond within two weeks, fails to submit documentation required by the board in time, or fails to pay the required fees, shall be designated as inactive.

(c) A vocational nursing school or program seeking board approval that has been on the inactive list for 90 days over the course of the application period shall be taken out of consideration for a new school or program and may only reapply after six months.

SEC. 6. Section 2883 of the Business and Professions Code is amended to read:

2883. (a) It shall be the duty of the board, through an official representative, to inspect or review all vocational nursing schools or programs in this state at such times as the board shall deem necessary. Written reports of the inspection or review shall be made to the board, which shall thereupon approve the schools or programs that meet the requirements provided by the board.

(b) (1) Upon receiving the report of the representative, if the board determines that any vocational nursing school or program is not maintaining the standard required by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the school or program. If the defects are not corrected within a reasonable time, the school or program may be issued a citation and assessed a fine as specified under subdivision (c) or removed from the approved list and notice thereof in writing given to it.

(2) Until the board establishes regulations pursuant to subdivision (c), a school or program may only be removed from the approved list if defects are not corrected within a reasonable time.

(c) (1) The board may issue a citation, which may contain an order of abatement or an order to pay an administrative fine, if it has established, by regulation, a system for the issuance of citations to a vocational nursing school or program that is consistent with Section 125.9.

(2) In the event that the school or program does not remit the assessed fine within 30 days, the board may place the school or program on provisional approval for up to six months or remove it from the approved school or program list and give it written notice of the removal.

(d) A vocational nursing school or program removed from the approved list may apply for approval after 12 months from the date of their removal.

SEC. 7. Section 2892.8 is added to the Business and Professions Code, to read:

2892.8. (a) The board, upon application and payment of the fee established pursuant to subdivision (h), shall issue a retired license to a licensee if the licensee holds an unrestricted license on the date of application.

(b) An applicant may elect to retire upon renewal or upon submission of an application to the board as required.

(c) A retired licensee shall be exempt from continuing education requirements.

(d) A retired licensee shall utilize their professional title only with the unabbreviated word "retired" directly preceding or directly following the professional title.

(e) A retired licensee shall not be entitled to practice vocational nursing.

(f) The board may investigate potential violations or take action against a retired license for a violation of this chapter.

(g) The board may reinstate a retired license to active status if the retired licensee fulfills the requirements for renewal of a license, including furnishing fingerprints, paying renewal fees, and providing evidence of the following, as applicable:

(1) For a retired licensee who has been retired for four years or fewer, the amount of continuing education required for the renewal of an active license.

(2) For a retired licensee who has been retired for more than four years, either a current valid active and clear registered nurse license, vocational nurse license, or an equivalent license in another state, a United States territory, or Canada, or passing the current examination for licensure.

(h) The fee to be paid upon filing the application for a retired license shall be fifty dollars (\$50) unless a higher fee, not to exceed one hundred dollars (\$100), is established by the board.

SEC. 8. Section 4501 of the Business and Professions Code is amended to read:

4501. (a) As used in this chapter, "board" means the Board of Vocational Nursing and Psychiatric Technicians of the State of California.

(b) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 9. Section 4503 of the Business and Professions Code is amended to read:

4503. (a) The board shall administer and enforce the provisions of this chapter.

(b) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 10. Section 4531.1 of the Business and Professions Code is amended to read:

4531.1. (a) The approval process for a school or program shall be consistent with the following timelines:

(1) (A) Upon receipt of a complete letter of intent to submit an application for approval as a school or program for psychiatric technicians, the board shall notify the proposed school or program of the steps in the approval process and provide an estimated wait time until active assignment to a nursing education consultant.

(B) A school or program for psychiatric technicians that fails to submit a complete letter of intent within 30 days from the date the board notifies the school or program of deficiencies shall be taken out of consideration for approval as a new school or program and may only reapply after six months.

(C) Upon active assignment of a nursing education consultant, the school or program shall submit an initial application for approval within 60 days.

(2) (A) Within 30 days of the date the board receives an initial application for approval, the board shall notify the school or program whether the application is complete.

(B) A notice that an initial application is not complete shall specify what additional documents or payment of fees the school or program is required to submit to the board to make the application complete.

(3) Within 60 days from the date the board notifies the school or program that the initial application is not complete, the school or program shall provide the missing information. If a school or program fails to submit the required information, the board shall take the application out of consideration consistent with subdivision (c) of Section 4531.2.

(4) Within six months of the date the board receives an initial application for approval as a school or program, the board shall approve the school or program, deny approval, or notify the school or program that corrective action is required.

(b) A school or program for psychiatric technicians seeking approval by the board shall remit to the board for deposit in the Vocational Nursing and Psychiatric Technicians Fund fees in accordance with the following schedule:

(1) The nonrefundable initial application fee shall be in an amount equal to the reasonable costs incurred by the board in reviewing and processing the application up to five thousand dollars (\$5,000).

(2) (A) Except as provided in subparagraph (B), the final approval fee shall be in an amount equal to the reasonable costs incurred by the board in the application approval process up to fifteen thousand dollars (\$15,000).

(B) The final approval fee for an applicant program that meets both of the following criteria shall be in an amount equal to the reasonable costs incurred by the board in the application approval process up to five thousand dollars (\$5,000):

(i) The program is affiliated with an approved school or program that is in good standing.

(ii) The program utilizes the curriculum and policies approved by the board for the approved school or program.

(3) The continuing approval fee shall be in an amount equal to the reasonable costs incurred by the board in providing oversight and review of a school or program up to five thousand dollars (\$5,000) once every four years.

(c) If the board makes an initial determination that the cost of providing oversight and review of a school or program under this section is less than the amount of any fees required to be paid by that school or program, the board shall decrease the fees applicable to that institution to an amount that is proportional to the board's reasonable costs associated with that school or program.

(d) The board may reduce the continuing approval fees, by no more than one-half of the established fee, for a program that experiences a reduction in enrollment capacity that directly leads to a reduction in state funding. The board shall require a program to provide documentation for the purposes of issuing the fee reduction.

(e) This section shall remain in effect only until January 1, 2029, and as of that date is repealed.

SEC. 11. Section 4531.2 of the Business and Professions Code is amended to read:

4531.2. (a) The board shall maintain a list of inactive schools and programs for psychiatric technicians seeking board approval.

(b) A school or program for psychiatric technicians seeking board approval shall respond to the board within two weeks of each inquiry or request during all phases of the application process after the school or program has submitted an initial application for approval pursuant to Section 4531.1. A school or program that does not respond within two weeks, fails to submit documentation required by the board in time, or fails to pay the required fees, shall be designated as inactive.

(c) A school or program for psychiatric technicians seeking board approval that has been on the inactive list for 90 days over the course of the application period shall be taken out of consideration for a new school or program and may only reapply after six months.

SEC. 12. Section 4532 of the Business and Professions Code is amended to read:

4532. (a) It shall be the duty of the board, through an official representative, to inspect or review all schools or programs for psychiatric technicians in this state at such times as the board shall deem necessary. Written reports of the inspection or review shall be made to the board, which shall then approve the schools or programs that meet the requirements provided by the board.

(b) (1) Upon receiving the report of the representative, if the board determines that any school or program for psychiatric technicians is not maintaining the standard required by the board, notice thereof in writing specifying the defect or defects shall be immediately given to the school or program. If the defects are not corrected within a reasonable time, the school or program may be issued a citation and assessed a fine as specified under subdivision (c) or removed from the approved list and notice thereof in writing given to it.

(2) Until the board establishes regulations pursuant to subdivision (c), a school or program may only be removed from the approved list if defects are not corrected within a reasonable time.

(c) (1) The board may issue a citation, which may contain an order of abatement or an order to pay an administrative fine, if it has established, by regulation, a system for the issuance of citations to a psychiatric technician school or program that is consistent with Section 125.9.

(2) In the event that the school or program does not remit the assessed fine within 30 days, the board may place the school or program on provisional approval for up to six months or remove it from the approved school or program list and give it written notice of the removal.

(d) A school or program for psychiatric technicians removed from the approved list may apply for approval after 12 months from the date of their removal.

SEC. 13. Section 4545.4 is added to the Business and Professions Code, to read:

4545.4. (a) The board, upon application and payment of the fee established pursuant to subdivision (h), shall issue a retired license to a licensee if the licensee holds an unrestricted license on the date of application.

(b) An applicant may elect to retire upon renewal or upon submission of an application to the board as required.

(c) A retired licensee shall be exempt from continuing education requirements.

(d) A retired licensee shall utilize their professional title only with the unabbreviated word "retired" directly preceding or directly following the professional title.

(e) A retired licensee shall not be entitled to practice as a psychiatric technician.

(f) The board may investigate potential violations or take action against a retired license for a violation of this chapter.

(g) The board may reinstate a retired license to active status if the retired licensee fulfills the requirements for renewal of a license, including furnishing fingerprints, paying renewal fees, and providing evidence of the following, as applicable:

(1) For a retired licensee who has been retired for four years or fewer, the amount of continuing education required for the renewal of an active license.

(2) For a retired licensee who has been retired for more than four years, either a current valid active and clear registered nurse license, psychiatric technician license, or an equivalent license in another state, a United States territory, or Canada, or passing the current examination for licensure.

(h) The fee to be paid upon filing the application for a retired license shall be fifty dollars (\$50) unless a higher fee, not to exceed one hundred dollars (\$100), is established by the board.

SEC. 14. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.