

AMENDED IN ASSEMBLY APRIL 24, 2024

CALIFORNIA LEGISLATURE—2023–24 REGULAR SESSION

ASSEMBLY BILL**No. 3255****Introduced by Committee on Business and Professions**

February 16, 2024

An act to amend ~~Section 2846 of the Business and Professions Code, Sections 2841, 2846, 2847.1, 2881.2, and 2881.3 of, and to add Section 2892.8 to, the Business and Professions Code~~, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 3255, as amended, Committee on Business and Professions. Vocational ~~nursing~~: *nursing: sunset: licensure*.

Existing law, the Vocational Nursing Practice Act, establishes the Board of Vocational Nursing and Psychiatric Technicians of the State of California, ~~which~~ *which, until January 1, 2025*, is charged with various licensing, regulatory, and disciplinary functions related to vocational nursing. Existing ~~law~~ *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 the act 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 ~~such~~ 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 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, 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 vocational nursing school or program seeking board approval to respond to the board within 2 weeks of each inquiry or request during all phases.

This bill would extend the operation of 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. 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.

Existing law prescribes various fees in connection with the issuance of licenses under the act, makes a license expire after 2 years if not renewed, and 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 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. 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.
State-mandated local program: ~~no~~-yes.

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

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

3 2841. (a) There is in the Department of Consumer Affairs a
4 Board of Vocational Nursing and Psychiatric Technicians of the
5 State of California, which consists of 11 members.

6 (b) As used in this chapter, “board” means the Board of
7 Vocational Nursing and Psychiatric Technicians of the State of
8 California.

9 (c) This section shall remain in effect only until January 1, 2025,
10 2029, and as of that date is repealed.

11 ~~SECTION 1.~~

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

14 2846. The board at its first meeting after appointment, and
15 biennially thereafter at its first meeting in every second year, shall
16 elect from its members a president, vice president, and such other
17 officers as it may deem necessary. The officers of the board shall
18 hold their respective positions during its pleasure.

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

21 2847.1. (a) Except as provided in subdivision (f), the board
22 shall select an executive officer who shall perform duties as are
23 delegated by the board and who shall be responsible to it for the
24 accomplishment of those duties.

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

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

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

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

36 (f) Commencing January 1, 2022, the executive officer shall,
37 again, be selected by the board as set forth in subdivision (a),
38 except that any executive officer in office on December 31, 2021,

1 shall continue in the position as executive officer of the board until
2 the position is vacated or the board selects another executive
3 officer.

4 (g) This section shall remain in effect only until January 1, ~~2025~~,
5 2029, and as of that date is repealed.

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

8 2881.2. (a) The approval process for a school or program shall
9 be consistent with the following timelines:

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

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

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

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

26 (3) Within 60 days from the date the board notifies the school
27 or program that the initial application is not complete, the school
28 or program shall provide the missing information. If a school or
29 program fails to submit the required information, the board shall
30 take the application out of consideration consistent with subdivision
31 (c) of Section 2881.3. The board may provide a school or program
32 with an additional 30 days to complete its application.

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

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

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

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

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

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

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

17 (3) The continuing approval fee shall be in an amount equal to
18 the reasonable costs incurred by the board in providing oversight
19 and review of a school or program up to five thousand dollars
20 (\$5,000) once every four years.

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

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

33 (e) (1) Notwithstanding Chapter 3.5 (commencing with Section
34 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
35 the board shall, without taking any further regulatory action,
36 implement, interpret, or make specific this section by means of
37 provider bulletins or similar instructions until emergency
38 regulations are adopted pursuant to paragraph (2). The board shall
39 provide written notice 30 days prior to the adoption of any
40 instruction under this paragraph and post the notice on its internet

1 website. It is the intent of the Legislature that the board have
2 temporary authority as necessary to implement program changes
3 until completion of the regulatory process.

4 (2) The board shall adopt emergency regulations no later than
5 June 30, 2022. The adoption of regulations shall be deemed an
6 emergency and necessary to avoid serious harm to the public peace,
7 health, safety, or general welfare within the meaning of Section
8 11342.545 of the Government Code, and the board need not make
9 a written finding of emergency as required by Section 11346.1 of
10 the Government Code. Notwithstanding subdivisions (e) and (h)
11 of Section 11346.1 of the Government Code, the board may
12 annually readopt any emergency regulation authorized by this
13 section that is the same as or substantially equivalent to an
14 emergency regulation previously adopted pursuant to this section
15 until January 1, 2024.

16 (3) The initial adoption of emergency regulations and the
17 readoption of emergency regulations authorized by this section
18 shall be submitted to the Office of Administrative Law for filing
19 with the Secretary of State. The emergency regulations shall remain
20 in effect for no more than one year from the date any regulation
21 became effective as an emergency regulation.

22 (f) This section shall remain in effect only until January 1, ~~2025,~~
23 ~~2029,~~ and as of that date is repealed.

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

26 2881.3. (a) The board shall maintain a list of inactive
27 vocational nursing schools and programs seeking board approval.

28 (b) A vocational nursing school or program seeking board
29 approval shall respond to the board within two weeks of each
30 inquiry or request during all ~~phases:~~ *phases of the application*
31 *process after the school or program has submitted an initial*
32 *application for approval pursuant to Section 2881.2. A school or*
33 *program that does not respond within two weeks, or fails to pay*
34 *the required fees, shall be designated as inactive.*

35 (c) A vocational nursing school or program seeking board
36 approval that remains on the inactive list for 90 days shall be taken
37 out of consideration for a new program and may only reapply after
38 six months.

39 *SEC. 6. Section 2892.8 is added to the Business and Professions*
40 *Code, to read:*

1 2892.8. (a) *The board, upon application and payment of the*
2 *fee established pursuant to subdivision (h), shall issue a retired*
3 *license to a licensee if the licensee holds an unrestricted license*
4 *on the date of application.*

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

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

9 (d) *A retired licensee shall utilize their professional title only*
10 *with the unabbreviated word “retired” directly preceding or*
11 *directly following the professional title.*

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

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

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

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

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

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

30 SEC. 7. *No reimbursement is required by this act pursuant to*
31 *Section 6 of Article XIII B of the California Constitution because*
32 *the only costs that may be incurred by a local agency or school*
33 *district will be incurred because this act creates a new crime or*
34 *infraction, eliminates a crime or infraction, or changes the penalty*
35 *for a crime or infraction, within the meaning of Section 17556 of*
36 *the Government Code, or changes the definition of a crime within*
37 *the meaning of Section 6 of Article XIII B of the California*
38 *Constitution.*

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