

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members

Date: August 26, 2016

From: Joanne Stacy
Policy Analyst

Telephone: (916) 575-7182

Subject: Agenda Item 13 – Discussion and Possible Action on 2016 Legislation Impacting Healing Arts Boards and the Practice of Optometry

The following bills, as currently written, impact the Board's functions and the practice of optometry. Legislation versions and status change frequently. The information below is current as of August 10, 2016. To view the most recent bill version, status and corresponding analysis, please click on the applicable hyperlinks below.

A. [Assembly Bill 12 \(Cooley\) State Government: Administrative Regulations: Review.](#)

Last Amended: August 19, 2015

Summary: This bill would require every state agency to review all provisions of the California Code of Regulations (CCR) it has adopted, and to adopt, amend, or repeal any regulations identified as duplicative, overlapping, or out of date by January 1, 2018.

Status: Died

Recommendation: Watch

Position: None

Recent Bill Analysis: [08/24/15- Senate Appropriations](#)

Potential Board Impact: This is in line with the Board's Strategic Plan (Objective 3.3) to review current regulations and determine the need for clarity and revisions. This bill would simply mandate the review by statute.

B. [Assembly Bill 2744 \(Gordon\) Healing Arts: Referrals.](#)

Last Amended: August 8, 2016 – The amendments were technical and clarifying.

Summary: This bill provides that payment or receipt of consideration for advertising for prepaid services offered by a licensed healing arts practitioner, subject to certain exclusions, does not constitute a referral of those services, and specifies that if the prepaid service is not appropriate for the purchaser, the licensee must provide a full price refund to the purchaser, as specified.

Status: Amended and ordered to second reading. Headed to the Senate Floor.

Recommendation: Watch

Position: None

Recent Bill Analysis: [08/03/16 – Senate Floor Analyses](#)

Potential Board Impact: Over the last few years, the Board's enforcement unit has received several inquiries into the legality of using service such as Groupon and how it relates to BPC § 650. This bill will provide clarity that using said services would not violation the law. Thus, staff believes this will assist licensees when considering this type of service and may lead to less enforcement cases.

C. **Senate Bill 1039 (Hill) Professions and Vocations**

Last Amended: 08/01/16

Summary: This is an omnibus bill which includes several changes to a number of boards under the Department of Consumer Affairs and also includes specified fee increases for several boards including the Board of Registered Nursing, the Pharmacy Board, the Contractors State License Board and the Court Reporters Board. This measure would also eliminate the current Telephone Medical Advice Services Bureau.

Status: Assembly Appropriations

Recommendation: Support: The Board had previously taken a Support if Amended position, the bill has been amended to include the Board's suggested amendments.

Recent Bill Analysis: [08/01/16 – Assembly Appropriations](#)

Potential Board Impact: The new RDO fee structure has been added with the other entities requesting fee increases.

The previous version of this bill deleted a provision that allows contact lens and spectacle lens dispensing applications to expire. This was unintended consequence of code clean up and had been fixed by legislative council. The bill now keeps the language is the current code section.

Attached is the RDO fee structure the Board approved during the May 2016 meeting and have been amended into SB 1039. (Attachment 1)

D. **Senate Bill 1155 (Morrell)**

Last Amended: June 23, 2016

Summary: This bill requires every board under the Department of Consumer Affairs (DCA) to waive initial license fees for the application for and issuance of an initial license to an applicant who supplies satisfactory evidence to the board that the applicant has served as an active duty member of the California National Guard or the United States Armed Forces and was honorably discharged. SB 1155 requires a veteran be granted only one fee waiver to an individual veteran and not to an application of or a license issued to an individual veteran on behalf of a business or other entity. The bill prohibits issuance of a waiver for renewal of a license, the application for and issuance of an additional license, a certificate, a registration, a permit associated with the initial license, or the application for an examination.

Status: Assembly Appropriations

Recommendation: Watch

Recent Bill Analysis: [08/01/16 – Assembly Appropriations](#)

Potential Board Impact: The fiscal impact of this bill is unknown because the Board has only recently started to ask if an applicant is a veteran or not. The bill is narrowly tailored to only waive the initial license fee for the veteran which would reduce the impact. Currently, the only DCA Board that is in support of the bill is California Board of Accountancy.

E. SB 1195, 1194 or Similar Bill; Proposed Legislation Addressing North Carolina Board of Dental Examiners Supreme Court Decision

Last Amended: April 6, 2016

Summary: Grants authority to the Director of the Department of Consumer Affairs (DCA) to review a decision or other action, except as specified, of a board within the DCA to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified; eliminates the requirement that the executive officer of the Board of Registered Nursing be a registered nurse; clarifies when a judgment or settlement for treble damages antitrust award would be granted for a member of a regulatory board; provides for an additional standard for the Office of Administrative Law to follow when reviewing regulatory actions of state boards. Also makes various changes that are intended to improve the effectiveness of the Veterinary Medical Board (Board) and extends the Board's sunset dates.

Status: Died

Recommendation: Watch

Recent Bill Analysis: [06/01/16 – Senate Floor Analyses](#)

Potential Board Impact: This bill grants more authority to the Director by allowing him/her to approve, disapprove, or modify the board decisions or actions. However, this still may not address the concerns raised by the U.S. Supreme Court Decision in the North Carolina State Board of Dental Examiners v. FTC or protect the members from potential anti-competitive lawsuits. In addition, any consumer who does not approve a Board action may request the Director's review, which would stay (hold) the Board action. This could lead to delayed implementation of a disciplinary decision if a respondent challenges a Board decision.

Note: There has been proposed language related to the North Carolina Board of Dental Examiners Supreme Court case. This language, initially intended for SB 1195 (Hill), will now be amended into a new vehicle before the end of session. The new language has been a compilation of the effective parties and addresses some of the concerns that were raised with SB 1195.

F. Senate Bill 482 (Lara) Controlled Substances: CURES Database

Last Amended: April 7, 2016

Summary: This bill requires prescribers to consult the Controlled Substances Utilization Review and Evaluation System (CURES) prior to prescribing a Schedule II or III drug to a patient for the first time and delays implementation of this requirement until the Department of Justice (DOJ) certifies that the CURES database is ready for statewide use.

Status: Assembly Floor 08/04/16

Recommendation: Watch

Recent Board Analysis: [08/05/16 – Assembly Floor Analyses](#)

Potential Board Impact: The impact to the Board would be minor. Licensees are already required to register on the CURES system. By adding the requirement to use the system, enforcement may see a slight increase for non-compliance. The Board previously discussed the CURES requirement and expressed frustration with the requirement for licensees to pay for and register in the system but no requirement to actually use the system. At that time, the Board discussed exploring future legislation to mandate optometrists use the system when prescribing controlled substances. Thus, this bill does what the Board believed needed to be done already.

G. Senate Bill 622 (Hernandez): Optometry

Last Amended: June 22, 2016

Summary: This bill would make various expansions in the scope of practice for optometrists and authorize certification in specified laser procedures, minor surgical procedures, and vaccinations.

Status: Pulled by author while in Assembly Business and Professions

Recommendation: Maintain Support Position

Recent Bill Analysis: [07/13/15- Assembly Business And Professions](#)

Potential Board Impact: While this bill increases the scope of optometrists, the way the bill is currently written, the impact to the Board is expected to be minor. BreZE configuration changes would need to be done and minor regulations would need to be drafted to fully implement the bill.

H. SB 836 Registered Dispensing Opticians Program Move (Originally TB 201)

Last Amended: 06/16/15

Summary: This bill would, notwithstanding any other law and in addition to any action available to the board, authorize the board to issue a citation containing an order of abatement and an order to pay an administrative fine, not to exceed \$50,000, for a violation of a specified section of law. The bill would also delete the authorization to redact personal information from a lease agreement, and would, therefore, expand an existing crime resulting from imposition of a state-mandated local program.

Status: Effective 06/27/16

Recommendation: None