

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL

No. 1237

Introduced by Senator Price

February 23, 2012

An act to amend Sections 4001, 4003, 8000, ~~and 8005, 8027, 8030.2, and 8030.5~~ of the Business and Professions Code, relating to professions, *and making an appropriation therefor*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1237, as amended, Price. Professions: pharmacists ~~and, court reporters: reporters, and Transcript Reimbursement Fund: sunset dates.~~

(1) Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacies, pharmacists, pharmacy technicians, wholesalers of dangerous drugs or devices, and others by the California State Board of Pharmacy. Existing law authorizes the board to appoint an executive officer. Under existing law, the board and its authority to appoint an executive officer will be repealed on January 1, 2013. Under existing law, boards scheduled for repeal are required to be evaluated by the Joint Sunset Review Committee.

This bill would extend the operation of the California State Board of Pharmacy and its authority to appoint an executive officer until January 1, 2017, and would specify that the board is subject to review by the appropriate policy committees of the Legislature.

(2) Existing law provides for the licensure and regulation of court reporters by the Court Reporters Board of California within the Department of Consumer Affairs. Existing law authorizes this board to appoint an executive officer and committees as necessary. Existing law repeals these provisions on January 1, 2013.

This bill would extend the operation of these provisions until January 1, 2017, and would specify that the board is subject to review by the appropriate policy committees of the Legislature.

Existing law requires, until January 1, 2013, certain fees and revenues collected by the board to be deposited into the Transcript Reimbursement Fund, to be available to provide reimbursement for the cost of providing shorthand reporting services to low-income litigants in civil cases. Existing law authorizes, until January 1, 2013, low-income persons appearing pro se to apply for funds from the Transcript Reimbursement Fund, subject to specified requirements and limitations. Existing law requires the board, until January 1, 2013, to publicize the availability of the fund to prospective applicants. Existing law requires the unencumbered funds remaining in the Transcript Reimbursement Fund as of January 1, 2013, to be transferred to the Court Reporters' Fund.

This bill would extend the operation of these provisions until January 1, 2017, and would make a technical change to these provisions. By extending the operation of the Transcript Reimbursement Fund, which is a continuously appropriated fund, the bill would make an appropriation.

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 4001 of the Business and Professions
- 2 Code is amended to read:
- 3 4001. (a) There is in the Department of Consumer Affairs a
- 4 California State Board of Pharmacy in which the administration
- 5 and enforcement of this chapter is vested. The board consists of
- 6 13 members.
- 7 (b) The Governor shall appoint seven competent pharmacists
- 8 who reside in different parts of the state to serve as members of
- 9 the board. The Governor shall appoint four public members, and
- 10 the Senate Committee on Rules and the Speaker of the Assembly
- 11 shall each appoint a public member who shall not be a licensee of
- 12 the board, any other board under this division, or any board referred
- 13 to in Section 1000 or 3600.
- 14 (c) At least five of the seven pharmacist appointees to the board
- 15 shall be pharmacists who are actively engaged in the practice of

pharmacy. Additionally, the membership of the board shall include at least one pharmacist representative from each of the following practice settings: an acute care hospital, an independent community pharmacy, a chain community pharmacy, and a long-term health care or skilled nursing facility. The pharmacist appointees shall also include a pharmacist who is a member of a labor union that represents pharmacists. For the purposes of this subdivision, a “chain community pharmacy” means a chain of 75 or more stores in California under the same ownership, and an “independent community pharmacy” means a pharmacy owned by a person or entity who owns no more than four pharmacies in California.

(d) Members of the board shall be appointed for a term of four years. No person shall serve as a member of the board for more than two consecutive terms. Each member shall hold office until the appointment and qualification of his or her successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. Vacancies occurring shall be filled by appointment for the unexpired term.

(e) Each member of the board shall receive a per diem and expenses as provided in Section 103.

(f) This section shall remain in effect only until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date. 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.

SEC. 2. Section 4003 of the Business and Professions Code is amended to read:

4003. (a) The board, with the approval of the director, 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. The executive officer may or may not be a member of the board as the board may determine.

(b) The executive officer shall receive the compensation as established by the board with the approval of the Director of Finance. The executive officer shall also be entitled to travel and other expenses necessary in the performance of his or her duties.

1 (c) The executive officer shall maintain and update in a timely
2 fashion records containing the names, titles, qualifications, and
3 places of business of all persons subject to this chapter.

4 (d) The executive officer shall give receipts for all money
5 received by him or her and pay it to the department, taking its
6 receipt therefor. Besides the duties required by this chapter, the
7 executive officer shall perform other duties pertaining to the office
8 as may be required of him or her by the board.

9 (e) This section shall remain in effect only until January 1, 2017,
10 and as of that date is repealed, unless a later enacted statute, that
11 is enacted before January 1, 2017, deletes or extends that date.

12 SEC. 3. Section 8000 of the Business and Professions Code is
13 amended to read:

14 8000. (a) There is in the Department of Consumer Affairs a
15 Court Reporters Board of California, which consists of five
16 members, three of whom shall be public members and two of
17 whom shall be holders of certificates issued under this chapter
18 who have been actively engaged as shorthand reporters within this
19 state for at least five years immediately preceding their
20 appointment.

21 (b) This section shall remain in effect only until January 1, 2017,
22 and as of that date is repealed, unless a later enacted statute, that
23 is enacted before January 1, 2017, deletes or extends that date.

24 (c) Notwithstanding any other provision of law, the repeal of
25 this section renders the board subject to review by the appropriate
26 policy committees of the Legislature.

27 SEC. 4. Section 8005 of the Business and Professions Code is
28 amended to read:

29 8005. The Court Reporters Board of California is charged with
30 the executive functions necessary for effectuating the purposes of
31 this chapter. It may appoint committees as it deems necessary or
32 proper. The board may appoint, prescribe the duties, and fix the
33 salary of an executive officer. Except as provided by Section 159.5,
34 the board may also employ other employees as may be necessary,
35 subject to civil service and other provisions of law.

36 This section shall remain in effect only until January 1, 2017,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2017, deletes or extends that date.

39 SEC. 5. Section 8027 of the Business and Professions Code is
40 amended to read:

1 8027. (a) As used in this section, “school” means a court
2 reporter training program or an institution that provides a course
3 of instruction approved by the board and the Bureau for Private
4 Postsecondary and Vocational Education, is a public school in this
5 state, or is accredited by the Western Association of Schools and
6 Colleges.

7 (b) A court reporting school shall be primarily organized to train
8 students for the practice of shorthand reporting, as defined in
9 Sections 8016 and 8017. Its educational program shall be on the
10 postsecondary or collegiate level. It shall be legally organized and
11 authorized to conduct its program under all applicable laws of the
12 state, and shall conform to and offer all components of the
13 minimum prescribed course of study established by the board. Its
14 records shall be kept and shall be maintained in a manner to render
15 them safe from theft, fire, or other loss. The records shall indicate
16 positive daily and clock-hour attendance of each student for all
17 classes, apprenticeship and graduation reports, high school
18 transcripts or the equivalent or self-certification of high school
19 graduation or the equivalent, transcripts of other education, and
20 student progress to date, including all progress and counseling
21 reports.

22 (c) Any school intending to offer a program in court reporting
23 shall notify the board within 30 days of the date on which it
24 provides notice to, or seeks approval from, the State Department
25 of Education, the Bureau for Private Postsecondary and Vocational
26 Education, the Office of the Chancellor of the California
27 Community Colleges, or the Western Association of Schools and
28 Colleges, whichever is applicable. The board shall review the
29 proposed curriculum and provide the school tentative approval, or
30 notice of denial, within 60 days of receipt of the notice. The school
31 shall apply for provisional recognition pursuant to subdivision (d)
32 within no more than one year from the date it begins offering court
33 reporting classes.

34 (d) The board may grant provisional recognition to a new court
35 reporting school upon satisfactory evidence that it has met all of
36 the provisions of subdivision (b) and this subdivision. Recognition
37 may be granted by the board to a provisionally recognized school
38 after it has been in continuous operation for a period of no less
39 than three consecutive years from the date provisional recognition
40 was granted, during which period the school shall provide

1 satisfactory evidence that at least one person has successfully
2 completed the entire course of study established by the board and
3 complied with the provisions of Section 8020, and has been issued
4 a certificate to practice shorthand reporting as defined in Sections
5 8016 and 8017. The board may, for good cause shown, extend the
6 three-year provisional recognition period for not more than one
7 year. Failure to meet the provisions and terms of this section shall
8 require the board to deny recognition. Once granted, recognition
9 may be withdrawn by the board for failure to comply with all
10 applicable laws and regulations.

11 (e) Application for recognition of a court reporting school shall
12 be made upon a form prescribed by the board and shall be
13 accompanied by all evidence, statements, or documents requested.
14 Each branch, extension center, or off-campus facility requires
15 separate application.

16 (f) All recognized and provisionally recognized court reporting
17 schools shall notify the board of any change in school name,
18 address, telephone number, responsible court reporting program
19 manager, owner of private schools, and the effective date thereof,
20 within 30 days of the change. All of these notifications shall be
21 made in writing.

22 (g) A school shall notify the board in writing immediately of
23 the discontinuance or pending discontinuance of its court reporting
24 program or any of the program's components. Within two years
25 of the date this notice is sent to the board, the school shall
26 discontinue its court reporting program in its entirety. The board
27 may, for good cause shown, grant not more than two one-year
28 extensions of this period to a school. If a student is to be enrolled
29 after this notice is sent to the board, a school shall disclose to the
30 student the fact of the discontinuance or pending discontinuance
31 of its court reporting program or any of its program components.

32 (h) The board shall maintain a roster of currently recognized
33 and provisionally recognized court reporting schools, including,
34 but not limited to, the name, address, telephone number, and the
35 name of the responsible court reporting program manager of each
36 school.

37 (i) The board shall maintain statistics that display the number
38 and passing percentage of all first-time examinees, including, but
39 not limited to, those qualified by each recognized or provisionally

1 recognized school and those first-time examinees qualified by
2 other methods as defined in Section 8020.

3 (j) Inspections and investigations shall be conducted by the
4 board as necessary to carry out this section, including, but not
5 limited to, unannounced site visits.

6 (k) All recognized and provisionally recognized schools shall
7 print in their school or course catalog the name, address, and
8 telephone number of the board. At a minimum, the information
9 shall be in 8-point bold type and include the following statement:

10
11 “IN ORDER FOR A PERSON TO QUALIFY FROM A
12 SCHOOL TO TAKE THE STATE LICENSING EXAMINATION,
13 THE PERSON SHALL COMPLETE A PROGRAM AT A
14 RECOGNIZED SCHOOL. FOR INFORMATION CONCERNING
15 THE MINIMUM REQUIREMENTS THAT A COURT
16 REPORTING PROGRAM MUST MEET IN ORDER TO BE
17 RECOGNIZED, CONTACT: THE COURT REPORTERS
18 BOARD OF CALIFORNIA; (ADDRESS); (TELEPHONE
19 NUMBER).”

20
21 (l) Each court reporting school shall file with the board, not
22 later than June 30 of each year, a current school catalog that shows
23 all course offerings and staff, and for private schools, the owner,
24 except that where there have been no changes to the catalog within
25 the previous year, no catalog need be sent. In addition, each school
26 shall also file with the board a statement certifying whether the
27 school is in compliance with all statutes and the rules and
28 regulations of the board, signed by the responsible court reporting
29 program manager.

30 (m) A school offering court reporting shall not make any written
31 or verbal claims of employment opportunities or potential earnings
32 unless those claims are based on verified data and reflect current
33 employment conditions.

34 (n) If a school offers a course of instruction that exceeds the
35 board’s minimum requirements, the school shall disclose orally
36 and in writing the board’s minimum requirements and how the
37 course of instruction differs from those criteria. The school shall
38 make this disclosure before a prospective student executes an
39 agreement obligating that person to pay any money to the school

1 for the course of instruction. The school shall also make this
2 disclosure to all students enrolled on January 1, 2002.

3 (o) Private and public schools shall provide each prospective
4 student with all of the following and have the prospective student
5 sign a document that shall become part of that individual's
6 permanent record, acknowledging receipt of each item:

7 (1) A student consumer information brochure published by the
8 board.

9 (2) A list of the school's graduation requirements, including the
10 number of tests, the pass point of each test, the speed of each test,
11 and the type of test, such as jury charge or literary.

12 (3) A list of requirements to qualify for the state-certified
13 shorthand reporter licensing examination, including the number
14 of tests, the pass point of each test, the speed of each test, and the
15 type of test, such as jury charge or literary, if different than those
16 requirements listed in paragraph (2).

17 (4) A copy of the school's board-approved benchmarks for
18 satisfactory progress as identified in subdivision (u).

19 (5) A report showing the number of students from the school
20 who qualified for each of the certified shorthand reporter licensing
21 examinations within the preceding two years, the number of those
22 students that passed each examination, the time, as of the date of
23 qualification, that each student was enrolled in court reporting
24 school, and the placement rate for all students that passed each
25 examination.

26 (6) On and after January 1, 2005, the school shall also provide
27 to prospective students the number of hours each currently enrolled
28 student who has qualified to take the next licensing test, exclusive
29 of transfer students, has attended court reporting classes.

30 (p) All enrolled students shall have the information in
31 subdivisions (n) and (o) on file no later than June 30, 2005.

32 (q) Public schools shall provide the information in subdivisions
33 (n) and (o) to each new student the first day he or she attends theory
34 or machine speed class, if it was not provided previously.

35 (r) Each enrolled student shall be provided written notification
36 of any change in qualification or graduation requirements that is
37 being implemented due to the requirements of any one of the
38 school's oversight agencies. This notice shall be provided to each
39 affected student at least 30 days before the effective date of the
40 change and shall state the new requirement and the name, address,

1 and telephone number of the agency that is requiring it of the
2 school. Each student shall initial and date a document
3 acknowledging receipt of that information and that document, or
4 a copy thereof, shall be made part of the student's permanent file.

5 (s) Schools shall make available a comprehensive final
6 examination in each academic subject to any student desiring to
7 challenge an academic class in order to obtain credit towards
8 certification for the state licensing examination. The points required
9 to pass a challenge examination shall not be higher than the
10 minimum points required of other students completing the
11 academic class.

12 (t) An individual serving as a teacher, instructor, or reader shall
13 meet the qualifications specified by regulation for his or her
14 position.

15 (u) Each school shall provide a substitute teacher or instructor
16 for any class for which the teacher or instructor is absent for two
17 consecutive days or more.

18 (v) The board has the authority to approve or disapprove
19 benchmarks for satisfactory progress which each school shall
20 develop for its court reporting program. Schools shall use only
21 board-approved benchmarks to comply with the provisions of
22 paragraph (4) of subdivision (o) and subdivision (u).

23 (w) Each school shall counsel each student a minimum of one
24 time within each 12-month period to identify the level of attendance
25 and progress, and the prognosis for completing the requirements
26 to become eligible to sit for the state licensing examination. If the
27 student has not progressed in accordance with the board-approved
28 benchmarks for that school, the student shall be counseled a
29 minimum of one additional time within that same 12-month period.

30 (x) The school shall provide to the board, for each student
31 qualifying through the school as eligible to sit for the state licensing
32 examination, the number of hours the student attended court
33 reporting classes, both academic and machine speed classes,
34 including theory.

35 (y) The pass rate of first-time examination takers for each school
36 offering court reporting shall meet or exceed the average pass rate
37 of all first-time test takers for a majority of examinations given
38 for the preceding three years. Failure to do so shall require the
39 board to conduct a review of the program. In addition, the board
40 may place the school on probation and may withdraw recognition

1 if the school continues to place below the above-described standard
2 on the two examinations that follow the three-year period.

3 (z) A school shall not require more than one 10-minute
4 qualifying examination, as defined in the regulations of the board,
5 for a student to be eligible to sit for the state certification
6 examination.

7 (aa) A school shall provide the board the actual number of hours
8 of attendance for each applicant the school qualifies for the state
9 licensing examination.

10 (ab) The board shall, by December 1, 2001, do the following
11 by regulation as necessary:

12 (1) Establish the format that shall be used by schools to report
13 tracking of all attendance hours and actual timeframes for
14 completed coursework.

15 (2) Require schools to provide a minimum of 10 hours of live
16 dictation class each school week for every full-time student.

17 (3) Require schools to provide students with the opportunity to
18 read back from their stenographic notes a minimum of one time
19 each day to his or her instructor.

20 (4) Require schools to provide students with the opportunity to
21 practice with a school-approved speed-building audio recording,
22 or other assigned material, a minimum of one hour per day after
23 school hours as a homework assignment and provide the notes
24 from this audio recording to their instructor the following day for
25 review.

26 (5) Develop standardization of policies on the use and
27 administration of qualifier examinations by schools.

28 (6) Define qualifier examination as follows: the qualifier
29 examination shall consist of 4-voice testimony of 10-minute
30 duration at 200 words per minute, graded at 97.5 percent accuracy,
31 and in accordance with the guidelines followed by the board.
32 Schools shall be required to date and number each qualifier and
33 announce the date and number to the students at the time of
34 administering the qualifier. All qualifiers shall indicate the actual
35 dictation time of the test and the school shall catalog and maintain
36 the qualifier for a period of not less than three years for the purpose
37 of inspection by the board.

38 (7) Require schools to develop a program to provide students
39 with the opportunity to interact with professional court reporters

1 to provide skill support, mentoring, or counseling that they can
2 document at least quarterly.

3 (8) Define qualifications and educational requirements required
4 of instructors and readers that read test material and qualifiers.

5 (ac) The board shall adopt regulations to implement the
6 requirements of this section not later than September 1, 2002.

7 (ad) The board may recover costs for any additional expenses
8 incurred under the enactment amending this section in the 2001–02
9 Regular Session of the Legislature pursuant to its fee authority in
10 Section 8031.

11 *SEC. 6. Section 8030.2 of the Business and Professions Code*
12 *is amended to read:*

13 8030.2. (a) To provide shorthand reporting services to
14 low-income litigants in civil cases, who are unable to otherwise
15 afford those services, funds generated by fees received by the board
16 pursuant to subdivision (c) of Section 8031 in excess of funds
17 needed to support the board's operating budget for the fiscal year
18 in which a transfer described below is made shall be used by the
19 board for the purpose of establishing and maintaining a Transcript
20 Reimbursement Fund. The Transcript Reimbursement Fund shall
21 be established by a transfer of funds from the Court Reporters'
22 Fund in the amount of three hundred thousand dollars (\$300,000)
23 at the beginning of each fiscal year. Notwithstanding any other
24 provision of this article, a transfer to the Transcript Reimbursement
25 Fund in excess of the fund balance established at the beginning of
26 each fiscal year shall not be made by the board if the transfer will
27 result in the reduction of the balance of the Court Reporters' Fund
28 to an amount less than six months' operating budget.

29 (b) All moneys held in the Court Reporters' Fund on the
30 effective date of this section in excess of the board's operating
31 budget for the 1996–97 fiscal year shall be used as provided in
32 subdivision (a).

33 (c) Refunds and unexpended funds that are anticipated to remain
34 in the Transcript Reimbursement Fund at the end of the fiscal year
35 shall be considered by the board in establishing the fee assessment
36 pursuant to Section 8031 so that the assessment shall maintain the
37 level of funding for the Transcript Reimbursement Fund, as
38 specified in subdivision (a), in the following fiscal year.

39 (d) The Transcript Reimbursement Fund is hereby created in
40 the State Treasury. Notwithstanding Section 13340 of the

Government Code, moneys in the Transcript Reimbursement Fund are continuously appropriated for the purposes of this chapter.

(e) (1) Applicants, including applicants pursuant to Section 8030.5, who have been reimbursed pursuant to this chapter for services provided to litigants and who are awarded court costs or attorney's fees by judgment or by settlement agreement shall refund the full amount of that reimbursement to the fund within 90 days of receipt of the award or settlement.

(2) An applicant pursuant to Section 8030.5 who has been reimbursed for services provided to litigants under this chapter shall refund the full amount reimbursed if a court orders the applicant's fee waiver withdrawn or denied retroactively pursuant to Section 68636 of the Government Code, within 90 days of the court's order withdrawing or denying the fee waiver.

(f) Subject to the limitations of this chapter, the board shall maintain the fund at a level that is sufficient to pay all qualified claims. To accomplish this objective, the board shall utilize all refunds, unexpended funds, fees, and any other moneys received by the board.

(g) Notwithstanding Section 16346 of the Government Code, all unencumbered funds remaining in the Transcript Reimbursement Fund as of January 1, ~~2013~~, 2017, shall be transferred to the Court Reporters' Fund.

(h) This section shall remain in effect only until January 1, ~~2013~~, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, ~~2013~~, 2017, deletes or extends that date.

SEC. 7. Section 8030.5 of the Business and Professions Code is amended to read:

8030.5. (a) Notwithstanding subdivision (e) of Section 8030.4, as used in this chapter the term "applicant" also means an indigent person, as defined in subdivision (f) of Section 8030.4, appearing pro se to represent himself or herself at any stage of the case and applying to receive funds from the Transcript Reimbursement Fund established by this chapter.

(b) Notwithstanding Section 8030.6, total disbursements to cover the cost of providing transcripts to all applicants pursuant to this section shall not exceed thirty thousand dollars (\$30,000) annually and shall not exceed one thousand five hundred dollars (\$1,500) per case.

1 (c) The board shall provide a report to the Senate and Assembly
2 Committees on Judiciary by March 1, 2012, that includes a
3 summary of the expenditures and claims relating to this article,
4 including the initial fund balance as of January 1, 2011; all funds
5 received, including the amount of, and reason for, any refunds
6 pursuant to subdivision (e) of Section 8030.2; all claims received,
7 including the type of case, court involved, service for which
8 reimbursement was sought, amount paid, and amount denied, if
9 any, and the reason for denial; and all administrative fees. This
10 report shall be provided using existing resources.

11 (d) The Legislature finds and declares that there are funds
12 available for indigent pro se parties under this article only because
13 the Transcript Reimbursement Fund has not been fully utilized in
14 recent years by the eligible applicants for whom its use has been
15 intended, despite the evident financial need among legal services
16 organizations and pro bono attorneys. Accordingly, the board shall,
17 using existing resources, undertake further efforts to publicize the
18 availability of the Transcript Reimbursement Fund to prospective
19 applicants, as defined in subdivision (e) of Section 8030.4, through
20 appropriate entities serving these applicants, including the State
21 Bar of California, the California Commission on Access to Justice,
22 and the Legal Aid Association of California. These efforts shall
23 be described in the report required by subdivision (c).

24 (e) This section shall remain in effect only until January 1, ~~2013~~,
25 2017, and as of that date is repealed, unless a later enacted statute
26 that is enacted before January 1, ~~2013~~, 2017, deletes or extends
27 that date.