

AMENDED IN ASSEMBLY APRIL 22, 2015

AMENDED IN ASSEMBLY MARCH 3, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 178

Introduced by Assembly Member Bonilla
(Coauthor: Senator Hill)

January 26, 2015

An act to amend ~~Sections 2841, 2847, 4501, and 4503 of Section 2847 of, and to add and repeal Sections 2847.5 and 2858.5 of, the Business and Professions Code, relating to healing arts.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 178, as amended, Bonilla. Board of Vocational Nursing and Psychiatric Technicians of the State of ~~California: authority: extension: California.~~

~~Existing law~~

~~(1) Existing law, the Vocational Nursing Practice Act and the Psychiatric Technicians Law, provides for the licensure and regulation of vocational nurses and psychiatric technicians by the Board of Vocational Nursing and Psychiatric Technicians of the State of California and requires the board, among other things, to appoint an executive officer. Existing law repeals these provisions on January 1, 2016. Existing law requires the executive officer to be a licensed vocational nurse, registered nurse, or psychiatric technician.~~

~~This bill would extend that repeal date to January 1, 2020: remove the requirement that the executive officer be a licensed vocational nurse, registered nurse, or psychiatric technician.~~

(2) Existing law authorizes the Director of Consumer Affairs to investigate the work of the boards within the Department of Consumer Affairs, obtain a copy of the records of official matters in possession of the boards, and require reports from the boards as the director deems reasonably necessary. Existing law requires the director to provide certain reports to the Legislature, including, but not limited to, a copy of an independent review of the Bureau for Private Postsecondary Education’s staffing resources needs and requirements. Existing law also makes a violation of the Vocational Nursing Practice Act or the Psychiatric Technicians Law a crime.

This bill would require the director to appoint an enforcement program monitor no later than October 1, 2015. The bill would require the monitor to monitor and evaluate the vocational nursing and psychiatric technician system and procedures for a period of no more than 2 years, as specified, submit a report of his or her findings and conclusions to the Legislature, the department, and the board by April 1, 2016, subsequent reports by October 1, 2016, and February 1, 2017, and a final report by August 1, 2017. The bill would require the board and its staff to cooperate with the monitor. The bill would also require the department’s internal audit unit to review the board’s staffing resources needs and requirements, and require the director to provide the Legislature with a copy of the review no later than October 1, 2016. The bill would repeal these provisions on January 1, 2018. By expanding the scope of a crime, this bill would impose a state-mandated local program.

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:~~

1 ~~2841. (a) There is in the Department of Consumer Affairs a~~
2 ~~Board of Vocational Nursing and Psychiatric Technicians of the~~
3 ~~State of California, consisting of 11 members.~~

4 ~~(b) Within the meaning of this chapter, “board,” or “the board,”~~
5 ~~refers to the Board of Vocational Nursing and Psychiatric~~
6 ~~Technicians of the State of California.~~

7 ~~(c) This section shall remain in effect only until January 1, 2020,~~
8 ~~and as of that date is repealed. Notwithstanding any other law, the~~
9 ~~repeal of this section renders the board subject to review by the~~
10 ~~appropriate policy committees of the Legislature.~~

11 ~~SEC. 2.~~

12 ~~SECTION 1.~~ Section 2847 of the Business and Professions
13 Code is amended to read:

14 2847. (a) The board shall select an executive officer who shall
15 perform duties as are delegated by the board and who shall be
16 responsible to it for the accomplishment of those duties.

17 ~~(b) The person selected to be the executive officer of the board~~
18 ~~shall be a duly licensed vocational nurse under this chapter, a duly~~
19 ~~licensed registered nurse under Chapter 6 (commencing with~~
20 ~~Section 2700), or a duly licensed psychiatric technician. The~~
21 ~~executive officer shall not be a member of the board.~~

22 ~~(c)~~

23 ~~(b)~~ With the approval of the Director of Finance, the board shall
24 fix the salary of the executive officer.

25 ~~(d)~~

26 ~~(c)~~ The executive officer shall be entitled to traveling and other
27 necessary expenses in the performance of his or her duties. He or
28 she shall make a statement, certified before a duly authorized
29 person, that the expenses have been actually incurred.

30 ~~(e)~~

31 ~~(d)~~ This section shall remain in effect only until January 1, 2020,
32 2016, and as of that date is repealed.

33 ~~SEC. 3.~~ Section 4501 of the Business and Professions Code is
34 amended to read:

35 4501. (a) “Board,” as used in this chapter, means the Board
36 of Vocational Nursing and Psychiatric Technicians of the State of
37 California.

38 ~~(b) This section shall remain in effect only until January 1, 2020,~~
39 ~~and as of that date is repealed.~~

1 ~~SEC. 4.— Section 4503 of the Business and Professions Code is~~
2 ~~amended to read:~~

3 ~~4503. (a) The board shall administer and enforce this chapter.~~

4 ~~(b) This section shall remain in effect only until January 1, 2020,~~
5 ~~and as of that date is repealed.~~

6 *SEC. 2. Section 2847.5 is added to the Business and Professions*
7 *Code, to read:*

8 *2847.5. (a) (1) The director shall appoint an enforcement*
9 *program monitor no later than October 1, 2015. The director may*
10 *retain a person for this position by a personal services contract.*
11 *In this connection, the Legislature finds, pursuant to Section 19130*
12 *of the Government Code, that this is a new state function.*

13 *(2) The director shall supervise the enforcement program*
14 *monitor and may terminate or dismiss him or her from this position.*

15 *(b) (1) The enforcement program monitor shall monitor and*
16 *evaluate the board's vocational nursing and psychiatric technician*
17 *disciplinary system and procedures, with specific concentration*
18 *on improving the overall efficiency and consistency of the*
19 *enforcement program. The director shall specify further duties of*
20 *the monitor.*

21 *(2) The monitoring duty shall be on a continuing basis for a*
22 *period of no more than two years from the date of the enforcement*
23 *program monitor's appointment and shall include, but not be*
24 *limited to, all of the following areas: improving the quality and*
25 *consistency of complaint processing and investigation, assuring*
26 *consistency in the application of sanctions or discipline imposed*
27 *on licensees, the accurate and consistent implementation of the*
28 *laws and rules affecting discipline, including adhering to CPEI*
29 *complaint priority guidelines as described in the memorandum*
30 *dated August 31, 2009, by Brian J. Stinger titled "Complaint*
31 *Prioritization Guidelines for Health Care Agencies," staff concerns*
32 *regarding disciplinary matters or procedures, appropriate*
33 *utilization of licensed professionals to investigate complaints, the*
34 *board's cooperation with other governmental entities charged*
35 *with enforcing related laws and regulations regarding vocational*
36 *nurses and psychiatric technicians.*

37 *(3) The enforcement program monitor shall exercise no authority*
38 *over the board's management or staff; however, the board and its*
39 *staff shall cooperate with him or her, and shall provide data,*

1 information, and files as requested by the monitor to perform all
2 of his or her duties.

3 (4) The director shall assist the enforcement program monitor
4 in the performance of his or her duties, and the monitor shall have
5 the same investigative authority as the director.

6 (c) (1) The enforcement program monitor shall submit to the
7 department, the board, and the Legislature an initial written report
8 of his or her findings and conclusions no later than April 1, 2016,
9 and subsequent written reports no later than October 1, 2016, and
10 February 1, 2017, and shall be available to make oral reports to
11 each if requested to do so. The monitor may also provide additional
12 information to either the department or the Legislature at his or
13 her discretion or at the request of either the department or the
14 Legislature. The monitor shall make his or her reports available
15 to the public or the media. The monitor shall make every effort to
16 provide the board with an opportunity to reply to any facts, finding,
17 issues, or conclusions in his or her reports with which the board
18 may disagree.

19 (2) The enforcement program monitor shall issue a final report
20 before August 1, 2017. The final report shall include final findings
21 and conclusions on the topics addressed in the initial report
22 submitted by the monitor pursuant to paragraph (1).

23 (d) The board shall pay for all of the costs associated with the
24 employment of the enforcement program monitor.

25 (e) This section shall become inoperative on October 1, 2017,
26 and as of January 1, 2018, is repealed.

27 SEC. 3. Section 2858.5 is added to the Business and Professions
28 Code, to read:

29 2858.5. (a) The department's internal audit unit shall review
30 the board's staffing resources needs and requirements, and the
31 director shall provide to the Legislature a copy of the review, no
32 later than October 1, 2016. The director shall include with this
33 report an overview of how the director intends to ensure that the
34 board's staff are sufficiently qualified for purposes of implementing
35 the provisions of this chapter and Chapter 10 (commencing with
36 Section 4500), and the estimated costs of meeting staffing and
37 other requirements to implement this chapter and Chapter 10
38 (commencing with Section 4500) based on findings of the review.
39 The director shall include a brief evaluation of whether the current

1 *fee structure is appropriate to satisfy those staffing and other*
2 *requirements.*

3 *(b) This section shall remain in effect only until January 1, 2018,*
4 *and as of that date is repealed.*

5 *SEC. 4. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *the only costs that may be incurred by a local agency or school*
8 *district will be incurred because this act creates a new crime or*
9 *infraction, eliminates a crime or infraction, or changes the penalty*
10 *for a crime or infraction, within the meaning of Section 17556 of*
11 *the Government Code, or changes the definition of a crime within*
12 *the meaning of Section 6 of Article XIII B of the California*
13 *Constitution.*