

AMENDED IN SENATE JUNE 24, 2015

AMENDED IN ASSEMBLY MAY 4, 2015

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~~)
(Principal coauthor: Senator Hill)

January 26, 2015

An act to amend Section 2847 of, to amend, repeal, and add Section 1752.1 of, to add and repeal Sections 2847.5 and 2858.5 of, and to repeal and add Section 1752.3 of, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 178, as amended, Bonilla. Board of Vocational Nursing and Psychiatric Technicians of the State of ~~California~~: *California: executive officer: enforcement program monitor*.

(1) The Dental Practice Act authorizes the Dental Board of California to license a person as a registered dental assistant if he or she meets certain requirements, including a written and practical examination.

This bill, until July 1, 2017, would remove that practical examination requirement. The bill would require the Dental Board of California, in consultation with the Office of Professional Examination Services, to determine on or before July 1, 2017, whether a practical examination

is necessary to demonstrate the competency of registered dental assistants and to submit that determination to the appropriate policy committees of the Legislature by that date, as specified. The bill would make related conforming changes.

(2) 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 that requirement 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 the repeal date requiring the board to appoint an executive officer to January 1, 2018. The bill would remove the requirement that the executive officer be a licensed vocational nurse, registered nurse, or psychiatric technician.

(3) 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 program 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 program 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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 1752.1 of the Business and Professions
2 Code is amended to read:

3 1752.1. (a) The board may license as a registered dental
4 assistant a person who files an application and submits written
5 evidence, satisfactory to the board, of one of the following
6 eligibility requirements:

7 (1) Graduation from an educational program in registered dental
8 assisting approved by the board, and satisfactory performance on
9 a written examination administered by the board.

10 (2) For individuals applying prior to January 1, 2010, evidence
11 of completion of satisfactory work experience of at least 12 months
12 as a dental assistant in California or another state and satisfactory
13 performance on a written examination administered by the board.

14 (3) For individuals applying on or after January 1, 2010,
15 evidence of completion of satisfactory work experience of at least
16 15 months as a dental assistant in California or another state and
17 satisfactory performance on a written examination administered
18 by the board.

19 (b) For purposes of this section, “satisfactory work experience”
20 means performance of the duties specified in Section 1750.1 in a
21 competent manner as determined by the employing dentist, who
22 shall certify to such satisfactory work experience in the application.

23 (c) The board shall give credit toward the work experience
24 referred to in this section to persons who have graduated from a
25 dental assisting program in a postsecondary institution approved
26 by the Department of Education or in a secondary institution,

1 regional occupational center, or regional occupational program,
2 that are not, however, approved by the board pursuant to
3 subdivision (a). The credit shall equal the total weeks spent in
4 classroom training and internship on a week-for-week basis. The
5 board, in cooperation with the Superintendent of Public Instruction,
6 shall establish the minimum criteria for the curriculum of
7 nonboard-approved programs. Additionally, the board shall notify
8 those programs only if the program's curriculum does not meet
9 established minimum criteria, as established for board-approved
10 registered dental assistant programs, except any requirement that
11 the program be given in a postsecondary institution. Graduates of
12 programs not meeting established minimum criteria shall not
13 qualify for satisfactory work experience as defined by this section.

14 (d) In addition to the requirements specified in subdivision (a),
15 each applicant for registered dental assistant licensure on or after
16 July 1, 2002, shall provide evidence of having successfully
17 completed board-approved courses in radiation safety and coronal
18 polishing as a condition of licensure. The length and content of
19 the courses shall be governed by applicable board regulations.

20 (e) In addition to the requirements specified in subdivisions (a)
21 and (d), individuals applying for registered dental assistant
22 licensure on or after January 1, 2010, shall demonstrate satisfactory
23 performance on a written examination in law and ethics
24 administered by the board and shall provide written evidence of
25 successful completion within five years prior to application of all
26 of the following:

27 (1) A board-approved course in the Dental Practice Act.

28 (2) A board-approved course in infection control.

29 (3) A course in basic life support offered by an instructor
30 approved by the American Red Cross or the American Heart
31 Association, or any other course approved by the board as
32 equivalent.

33 (f) A registered dental assistant may apply for an orthodontic
34 assistant permit or a dental sedation assistant permit, or both, by
35 submitting written evidence of the following:

36 (1) Successful completion of a board-approved orthodontic
37 assistant or dental sedation assistant course, as applicable.

38 (2) Passage of a written examination administered by the board
39 that shall encompass the knowledge, skills, and abilities necessary
40 to competently perform the duties of the particular permit.

1 (g) A registered dental assistant with permits in either
2 orthodontic assisting or dental sedation assisting shall be referred
3 to as an “RDA with orthodontic assistant permit,” or “RDA with
4 dental sedation assistant permit,” as applicable. These terms shall
5 be used for reference purposes only and do not create additional
6 categories of licensure.

7 (h) Completion of the continuing education requirements
8 established by the board pursuant to Section 1645 by a registered
9 dental assistant who also holds a permit as an orthodontic assistant
10 or dental sedation assistant shall fulfill the continuing education
11 requirements for the permit or permits.

12 (i) The board shall, in consultation with the Office of
13 Professional Examination Services, conduct a review to determine
14 whether a practical examination is necessary to demonstrate
15 competency of registered dental assistants, and if so, how this
16 examination should be developed and administered. The board
17 shall submit its review and determination to the appropriate policy
18 committees of the Legislature on or before July 1, 2017.

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

22 SEC. 2. Section 1752.1 is added to the Business and Professions
23 Code, to read:

24 1752.1. (a) The board may license as a registered dental
25 assistant a person who files an application and submits written
26 evidence, satisfactory to the board, of one of the following
27 eligibility requirements:

28 (1) Graduation from an educational program in registered dental
29 assisting approved by the board, and satisfactory performance on
30 a written and practical examination administered by the board.

31 (2) For individuals applying prior to January 1, 2010, evidence
32 of completion of satisfactory work experience of at least 12 months
33 as a dental assistant in California or another state and satisfactory
34 performance on a written and practical examination administered
35 by the board.

36 (3) For individuals applying on or after January 1, 2010,
37 evidence of completion of satisfactory work experience of at least
38 15 months as a dental assistant in California or another state and
39 satisfactory performance on a written and practical examination
40 administered by the board.

1 (b) For purposes of this section, “satisfactory work experience”
2 means performance of the duties specified in Section 1750.1 in a
3 competent manner as determined by the employing dentist, who
4 shall certify to such satisfactory work experience in the application.

5 (c) The board shall give credit toward the work experience
6 referred to in this section to persons who have graduated from a
7 dental assisting program in a postsecondary institution approved
8 by the State Department of Education or in a secondary institution,
9 regional occupational center, or regional occupational program,
10 that are not, however, approved by the board pursuant to
11 subdivision (a). The credit shall equal the total weeks spent in
12 classroom training and internship on a week-for-week basis. The
13 board, in cooperation with the Superintendent of Public Instruction,
14 shall establish the minimum criteria for the curriculum of
15 nonboard-approved programs. Additionally, the board shall notify
16 those programs only if the program’s curriculum does not meet
17 established minimum criteria, as established for board-approved
18 registered dental assistant programs, except any requirement that
19 the program be given in a postsecondary institution. Graduates of
20 programs not meeting established minimum criteria shall not
21 qualify for satisfactory work experience as defined by this section.

22 (d) In addition to the requirements specified in subdivision (a),
23 each applicant for registered dental assistant licensure on or after
24 July 1, 2002, shall provide evidence of having successfully
25 completed board-approved courses in radiation safety and coronal
26 polishing as a condition of licensure. The length and content of
27 the courses shall be governed by applicable board regulations.

28 (e) In addition to the requirements specified in subdivisions (a)
29 and (d), individuals applying for registered dental assistant
30 licensure on or after January 1, 2010, shall demonstrate satisfactory
31 performance on a written examination in law and ethics
32 administered by the board and shall provide written evidence of
33 successful completion within five years prior to application of all
34 of the following:

- 35 (1) A board-approved course in the Dental Practice Act.
- 36 (2) A board-approved course in infection control.
- 37 (3) A course in basic life support offered by an instructor
38 approved by the American Red Cross or the American Heart
39 Association, or any other course approved by the board as
40 equivalent.

1 (f) A registered dental assistant may apply for an orthodontic
2 assistant permit or a dental sedation assistant permit, or both, by
3 submitting written evidence of the following:

4 (1) Successful completion of a board-approved orthodontic
5 assistant or dental sedation assistant course, as applicable.

6 (2) Passage of a written examination administered by the board
7 that shall encompass the knowledge, skills, and abilities necessary
8 to competently perform the duties of the particular permit.

9 (g) A registered dental assistant with permits in either
10 orthodontic assisting or dental sedation assisting shall be referred
11 to as an “RDA with orthodontic assistant permit,” or “RDA with
12 dental sedation assistant permit,” as applicable. These terms shall
13 be used for reference purposes only and do not create additional
14 categories of licensure.

15 (h) Completion of the continuing education requirements
16 established by the board pursuant to Section 1645 by a registered
17 dental assistant who also holds a permit as an orthodontic assistant
18 or dental sedation assistant shall fulfill the continuing education
19 requirements for the permit or permits.

20 (i) This section shall become operative on July 1, 2017.

21 SEC. 3. Section 1752.3 of the Business and Professions Code
22 is repealed.

23 SEC. 4. Section 1752.3 is added to the Business and Professions
24 Code, to read:

25 1752.3. (a) On and after January 1, 2010, the written
26 examination for registered dental assistant licensure required by
27 Section 1752.1 shall comply with Section 139.

28 (b) On and after January 1, 2010, the practical examination for
29 registered dental assistant licensure required by Section 1752.1
30 shall consist of three of the procedures described in paragraphs
31 (1) to (4), inclusive. The specific procedures shall be assigned by
32 the board, after considering recommendations of its Dental
33 Assisting Council, and shall be graded by examiners appointed by
34 the board. The procedures shall be performed on a fully articulated
35 maxillary and mandibular typodont secured with a bench clamp.
36 Each applicant shall furnish the required materials necessary to
37 complete the examination.

38 (1) Place a base or liner.

39 (2) Place, adjust, and finish a direct provisional restoration.

40 (3) Fabricate and adjust an indirect provisional restoration.

1 (4) Cement an indirect provisional restoration.

2 (c) This section shall become operative on July 1, 2017.

3 SEC. 5. Section 2847 of the Business and Professions Code is
4 amended to read:

5 2847. (a) The board shall select an executive officer who shall
6 perform duties as are delegated by the board and who shall be
7 responsible to it for the accomplishment of those duties. The
8 executive officer shall not be a member of the board.

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

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

15 (d) This section shall remain in effect only until January 1, ~~2016,~~
16 ~~2018~~, and as of that date is repealed.

17 SEC. 6. Section 2847.5 is added to the Business and Professions
18 Code, to read:

19 2847.5. (a) (1) The director shall appoint an enforcement
20 program monitor no later than October 1, 2015. The director may
21 retain a person for this position by a personal services contract. In
22 this connection, the Legislature finds, pursuant to Section 19130
23 of the Government Code, that this is a new state function.

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

26 (b) (1) The enforcement program monitor shall monitor and
27 evaluate the board's vocational nursing and psychiatric technician
28 disciplinary system and procedures, with specific concentration
29 on improving the overall efficiency and consistency of the
30 enforcement program. The director shall specify further duties of
31 the monitor.

32 (2) The monitoring duty shall be on a continuing basis for a
33 period of no more than two years from the date of the enforcement
34 program monitor's appointment and shall include, but not be
35 limited to, all of the following areas: improving the quality and
36 consistency of complaint processing and investigation, assuring
37 consistency in the application of sanctions or discipline imposed
38 on licensees, the accurate and consistent implementation of the
39 laws and rules affecting discipline, including adhering to CPEI
40 complaint priority guidelines as described in the memorandum

1 dated August 31, 2009, by Brian J. ~~Stinger~~ *Stiger* titled “Complaint
2 Prioritization Guidelines for Health Care Agencies,” staff concerns
3 regarding disciplinary matters or procedures, appropriate utilization
4 of licensed professionals to investigate complaints, the board’s
5 cooperation with other governmental entities charged with
6 enforcing related laws and regulations regarding vocational nurses
7 and psychiatric technicians.

8 (3) The enforcement program monitor shall exercise no authority
9 over the board’s management or staff; however, the board and its
10 staff shall cooperate with him or her, and shall provide data,
11 information, and files as requested by the monitor to perform all
12 of his or her duties.

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

16 (c) (1) The enforcement program monitor shall submit to the
17 department, the board, and the Legislature an initial written report
18 of his or her findings and conclusions no later than April 1, 2016,
19 and subsequent written reports no later than October 1, 2016, and
20 February 1, 2017, and shall be available to make oral reports to
21 each if requested to do so. The monitor may also provide additional
22 information to either the department or the Legislature at his or
23 her discretion or at the request of either the department or the
24 Legislature. The monitor shall make his or her reports available
25 to the public or the media. The monitor shall make every effort to
26 provide the board with an opportunity to reply to any facts, finding,
27 issues, or conclusions in his or her reports with which the board
28 may disagree.

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

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

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

37 SEC. 7. Section 2858.5 is added to the Business and Professions
38 Code, to read:

39 2858.5. (a) The department’s internal audit unit shall review
40 the board’s staffing resources needs and requirements, and the

1 director shall provide to the Legislature a copy of the review, no
2 later than October 1, 2016. The director shall include with this
3 report an overview of how the director intends to ensure that the
4 board's staff are sufficiently qualified for purposes of implementing
5 the provisions of this chapter and Chapter 10 (commencing with
6 Section 4500), and the estimated costs of meeting staffing and
7 other requirements to implement this chapter and Chapter 10
8 (commencing with Section 4500) based on findings of the review.
9 The director shall include a brief evaluation of whether the current
10 fee structure is appropriate to satisfy those staffing and other
11 requirements.

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

14 SEC. 8. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 the only costs that may be incurred by a local agency or school
17 district will be incurred because this act creates a new crime or
18 infraction, eliminates a crime or infraction, or changes the penalty
19 for a crime or infraction, within the meaning of Section 17556 of
20 the Government Code, or changes the definition of a crime within
21 the meaning of Section 6 of Article XIII B of the California
22 Constitution.

23 SEC. 9. This act is an urgency statute necessary for the
24 immediate preservation of the public peace, health, or safety within
25 the meaning of Article IV of the Constitution and shall go into
26 immediate effect. The facts constituting the necessity are:

27 In order for the Board of Vocational Nursing and Psychiatric
28 Technicians of the State of California to meet urgent administrative
29 needs, it is necessary that this act take effect immediately.