

AMENDED IN SENATE AUGUST 31, 2015

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
(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, 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: executive officer: enforcement program monitor: *officer*.

(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~~

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, board to, among other things, to appoint an executive officer, officer, who is a licensed vocational nurse, registered nurse, or psychiatric technician. 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-no*.

State-mandated local program: *yes-no*.

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~~

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

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

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

~~29 (1) A board-approved course in the Dental Practice Act.~~

~~30 (2) A board-approved course in infection control.~~

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

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

~~38 (1) Successful completion of a board-approved orthodontic
39 assistant or dental sedation assistant course, as applicable.~~

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

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

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

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

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

25 ~~SEC. 2. Section 1752.1 is added to the Business and Professions~~
26 ~~Code, to read:~~

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

31 ~~(1) Graduation from an educational program in registered dental~~
32 ~~assisting approved by the board, and satisfactory performance on~~
33 ~~a written and practical examination administered by the board.~~

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

39 ~~(3) For individuals applying on or after January 1, 2010,~~
40 ~~evidence of completion of satisfactory work experience of at least~~

1 15 months as a dental assistant in California or another state and
2 satisfactory performance on a written and practical examination
3 administered by the board.

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

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

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

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

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

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

1 ~~(3) A course in basic life support offered by an instructor~~
2 ~~approved by the American Red Cross or the American Heart~~
3 ~~Association, or any other course approved by the board as~~
4 ~~equivalent.~~

5 ~~(f) A registered dental assistant may apply for an orthodontic~~
6 ~~assistant permit or a dental sedation assistant permit, or both, by~~
7 ~~submitting written evidence of the following:~~

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

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

13 ~~(g) A registered dental assistant with permits in either~~
14 ~~orthodontic assisting or dental sedation assisting shall be referred~~
15 ~~to as an "RDA with orthodontic assistant permit," or "RDA with~~
16 ~~dental sedation assistant permit," as applicable. These terms shall~~
17 ~~be used for reference purposes only and do not create additional~~
18 ~~categories of licensure.~~

19 ~~(h) Completion of the continuing education requirements~~
20 ~~established by the board pursuant to Section 1645 by a registered~~
21 ~~dental assistant who also holds a permit as an orthodontic assistant~~
22 ~~or dental sedation assistant shall fulfill the continuing education~~
23 ~~requirements for the permit or permits.~~

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

25 ~~SEC. 3. Section 1752.3 of the Business and Professions Code~~
26 ~~is repealed.~~

27 ~~SEC. 4. Section 1752.3 is added to the Business and Professions~~
28 ~~Code, to read:~~

29 ~~1752.3. (a) On and after January 1, 2010, the written~~
30 ~~examination for registered dental assistant licensure required by~~
31 ~~Section 1752.1 shall comply with Section 139.~~

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

1 Each applicant shall furnish the required materials necessary to
2 complete the examination.

3 (1) Place a base or liner.

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

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

6 (4) Cement an indirect provisional restoration.

7 (e) This section shall become operative on July 1, 2017.

8 SEC. 5.

9 SECTION 1. Section 2847 of the Business and Professions
10 Code is amended to read:

11 2847. (a) The board shall select an executive officer who shall
12 perform duties as are delegated by the board and who shall be
13 responsible to it for the accomplishment of those duties. The
14 executive officer shall not be a member of the board.

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

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

21 (d) This section shall remain in effect only until January 1, 2018,
22 2016, and as of that date is repealed.

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

25 2847.5. (a) (1) The director shall appoint an enforcement
26 program monitor no later than October 1, 2015. The director may
27 retain a person for this position by a personal services contract. In
28 this connection, the Legislature finds, pursuant to Section 19130
29 of the Government Code, that this is a new state function.

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

32 (b) (1) The enforcement program monitor shall monitor and
33 evaluate the board's vocational nursing and psychiatric technician
34 disciplinary system and procedures, with specific concentration
35 on improving the overall efficiency and consistency of the
36 enforcement program. The director shall specify further duties of
37 the monitor.

38 (2) The monitoring duty shall be on a continuing basis for a
39 period of no more than two years from the date of the enforcement
40 program monitor's appointment and shall include, but not be

1 limited to, all of the following areas: improving the quality and
2 consistency of complaint processing and investigation, assuring
3 consistency in the application of sanctions or discipline imposed
4 on licensees, the accurate and consistent implementation of the
5 laws and rules affecting discipline, including adhering to CPEI
6 complaint priority guidelines as described in the memorandum
7 dated August 31, 2009, by Brian J. Stiger titled "Complaint
8 Prioritization Guidelines for Health Care Agencies," staff concerns
9 regarding disciplinary matters or procedures, appropriate utilization
10 of licensed professionals to investigate complaints, the board's
11 cooperation with other governmental entities charged with
12 enforcing related laws and regulations regarding vocational nurses
13 and psychiatric technicians.

14 (3) The enforcement program monitor shall exercise no authority
15 over the board's management or staff; however, the board and its
16 staff shall cooperate with him or her, and shall provide data,
17 information, and files as requested by the monitor to perform all
18 of his or her duties.

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

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

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

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

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

3 ~~SEC. 7. Section 2858.5 is added to the Business and Professions~~
4 ~~Code, to read:~~

5 ~~2858.5. (a) The department's internal audit unit shall review~~
6 ~~the board's staffing resources needs and requirements, and the~~
7 ~~director shall provide to the Legislature a copy of the review, no~~
8 ~~later than October 1, 2016. The director shall include with this~~
9 ~~report an overview of how the director intends to ensure that the~~
10 ~~board's staff are sufficiently qualified for purposes of implementing~~
11 ~~the provisions of this chapter and Chapter 10 (commencing with~~
12 ~~Section 4500), and the estimated costs of meeting staffing and~~
13 ~~other requirements to implement this chapter and Chapter 10~~
14 ~~(commencing with Section 4500) based on findings of the review.~~
15 ~~The director shall include a brief evaluation of whether the current~~
16 ~~fee structure is appropriate to satisfy those staffing and other~~
17 ~~requirements.~~

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

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

29 ~~SEC. 9.~~

30 ~~SEC. 2. This act is an urgency statute necessary for the~~
31 ~~immediate preservation of the public peace, health, or safety within~~
32 ~~the meaning of Article IV of the Constitution and shall go into~~
33 ~~immediate effect. The facts constituting the necessity are:~~

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