


## MEMORANDUM

<b>DATE</b>	July 26, 2017
<b>TO</b>	Board of Psychology
<b>FROM</b>	 Cherise Burns Central Services Manager
<b>SUBJECT</b>	Agenda Item #5(b)(1)(E) – SB 547 (Hill) Professions and Vocations: Weights and Measures

### **Background:**

SB 547 would remove the specification in statute for who can pay the psychological assistant registration fee to the Board and would specify that the delinquency for Board licensees is 50 percent of the renewal fee for each license type, not to exceed one hundred and fifty dollars (\$150). This bill would also make various changes to provisions for the Board of Accountancy.

SB 547 is the Senate Committee on Business, Professions and Economic Development Omnibus Bill, which includes the provisions from the Board's revised Omnibus Proposal as adopted at the April 21 Board Teleconference Meeting with the psychological assistant fee changes and changes to the delinquency fee.

**Location:** Assembly Committee on Appropriations

**Status:** 7/11/2017 From committee, do pass and re-refer to Assembly Committee on Appropriations.

**Votes:** 7/11/2017 Assembly Committee on Privacy and Consumer Protection (9-1-0)  
6/27/2017 Assembly Committee on Business and Professions (16-0-0)  
5/30/2017 Senate Floor (40-0-0)  
4/24/2017 Senate Committee on Business, Professions and Economic Development (8-0-1)

### **Action Requested:**

This item is for informational purposes only. No action is requested at this time.

Attachment A: SB 547 (Hill) Text

Attachment B: Board's Letter to Assembly Committee on Privacy and Consumer Protection

Attachment C: Assembly Committee on Privacy and Consumer Protection Analysis

Attachment D: Board's Letter to Assembly Committee on Business and Professions


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**SB-547 Professions and vocations: weights and measures.** (2017-2018)

**SECTION 1.** *Section 156 of the Business and Professions Code is amended to read:*

**156.** (a) The director may, for the department and at the request and with the consent of a board within the department on whose behalf the contract is to be made, enter into contracts pursuant to Chapter 3 (commencing with Section 11250) of Part 1 of Division 3 of Title 2 of the Government Code or Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code for and on behalf of any board within the department.

(b) In accordance with subdivision (a), the director may, in his or her discretion, negotiate and execute contracts for examination ~~purposes~~ *purposes*, which include provisions ~~which that~~ hold harmless a contractor where liability resulting from a contract between a board in the department and the contractor is traceable to the state or its officers, agents, or employees.

*(c) The director shall report progress on release 3 entities' transition to a new licensing technology platform to all the appropriate committees of the Legislature by December 31 of each year. Progress reports shall include updated plans and timelines for completing all of the following:*

*(1) Business process documentation.*

*(2) Cost benefit analyses of IT options.*

*(3) IT system development and implementation.*

*(4) Any other relevant steps needed to meet the IT needs of release 3 entities.*

*(5) Any other information as the Legislature may request.*

**SEC. 2.** *Section 303 of the Business and Professions Code is repealed.*

~~**303.** There is in the department a Division of Consumer Services under the supervision and control of a chief. The chief shall be appointed by the Governor and shall serve at his pleasure. His compensation shall be fixed by the director in accordance with law.~~

**SEC. 3.** *Section 2499.5 of the Business and Professions Code is amended to read:*

**2499.5.** The following fees apply to certificates to practice podiatric medicine. The amount of fees prescribed for doctors of podiatric medicine shall be ~~those set forth in this section unless a lower fee is established~~ *determined* by the board ~~in accordance with Section 2499.6. and shall be as described below~~. Fees collected pursuant to this section shall be fixed by the board in amounts not to exceed the actual costs of providing the service for which the fee is collected.

(a) Each applicant for a certificate to practice podiatric medicine shall pay an application fee of ~~twenty dollars (\$20)~~ *no more than one hundred dollars (\$100)* at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee ~~which shall be fixed by the board at an amount~~ not to exceed one hundred dollars (\$100) nor less than five dollars (\$5) for the issuance of the certificate.

(b) The oral examination fee shall be seven hundred dollars (\$700), or the actual cost, whichever is lower, and shall be paid by each applicant. If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, and has so notified the board 30 days prior to the examination date, only the examination fee is returnable to the applicant. The board may charge an examination fee for any subsequent reexamination of the applicant.

(c) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required by this section, shall pay an initial license fee. The initial license fee shall be eight hundred dollars

(\$800). The initial license shall expire the second year after its issuance on the last day of the month of birth of the licensee. The board may reduce the initial license fee by up to 50 percent of the amount of the fee for any applicant who is enrolled in a postgraduate training program approved by the board or who has completed a postgraduate training program approved by the board within six months prior to the payment of the initial license fee.

(d) The biennial renewal fee shall be nine hundred dollars (\$900). Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(e) The delinquency fee ~~is~~ *shall be* one hundred fifty dollars (\$150).

(f) The duplicate wall certificate fee ~~is forty dollars (\$40)~~ *shall be no more than one hundred dollars (\$100)*.

(g) The duplicate renewal receipt fee ~~is forty dollars (\$40)~~ *shall be no more than fifty dollars (\$50)*.

(h) The endorsement fee ~~is~~ *shall be* thirty dollars (\$30).

(i) The letter of good standing fee or for loan deferment ~~is thirty dollars (\$30)~~ *shall be no more than one hundred dollars (\$100)*.

(j) There shall be a fee of ~~sixty dollars (\$60)~~ *no more than one hundred dollars (\$100)* for the issuance of a resident's license under Section 2475.

~~(k) The application fee for ankle certification under Section 2472 for persons licensed prior to January 1, 1984, shall be fifty dollars (\$50). The examination and reexamination fee for this certification shall be seven hundred dollars (\$700).~~

~~(k)~~

↓

↓ The filing fee to appeal the failure of an oral examination shall be ~~twenty-five dollars (\$25)~~ *no more than one hundred dollars (\$100)*.

~~(m) (l)~~ The fee for approval of a continuing education course or program shall be ~~one hundred dollars (\$100)~~ *no more than two hundred fifty dollars (\$250)*.

**SEC. 4. Section 2715 of the Business and Professions Code is amended to read:**

**2715.** (a) The board shall prosecute all persons guilty of violating this chapter.

(b) Except as provided by Section 159.5, the board, in accordance with the Civil Service Law, may employ ~~the personnel~~ *personnel, including legal counsel, as* it deems necessary to carry into effect this chapter.

(c) The board shall have and use a seal bearing the name "Board of Registered Nursing." The board may adopt, amend, or repeal, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the rules and regulations that may be reasonably necessary to enable it to carry into effect this chapter.

**SEC. 5. Section 2760.1 of the Business and Professions Code is amended to read:**

**2760.1.** (a) A registered nurse whose license has been revoked or suspended or who has been placed on probation may petition the board for reinstatement or modification of penalty, including reduction or termination of probation, after a period not less than the following minimum periods has elapsed from the effective date of the decision ordering that disciplinary action, or if the order of the board or any portion of it is stayed by the board itself or by the superior court, from the date the disciplinary action is actually implemented in its entirety, or for a registered nurse whose initial license application is subject to a disciplinary decision, from the date the initial license was issued:

(1) Except as otherwise provided in this section, at least three years for reinstatement of a license that was revoked, except that the board may, in its sole discretion, specify in its order a lesser period of time provided that the period shall be not less than one year.

(2) At least two years for early termination of a probation period of three years or more.

(3) At least one year for modification of a condition, or reinstatement of a license revoked for mental or physical illness, or termination of probation of less than three years.

(b) The board shall give notice to the Attorney General of the filing of the petition. The petitioner and the Attorney General shall be given timely notice by letter of the time and place of the hearing on the petition, and an opportunity to present both oral and documentary evidence and argument to the board. The petitioner shall at all times have the burden of proof to establish by clear and convincing evidence that he or she is entitled to the relief sought in the petition.

(c) The hearing may be continued from time to time as the board deems appropriate.

*(d) (1) The petition may be heard by the board or the board may assign the petition to an administrative law judge, as specified in Section 11371 of the Government Code.*

~~(d) (2) The board itself shall hear the petition and~~ *If the board assigns the petition to an administrative law judge, the administrative law judge shall* ~~prepare submit~~ *a written proposed* ~~decision setting forth the~~ *to the board for its consideration, which shall include* reasons supporting the *proposed* decision.

(e) The board may grant or deny the petition, or may impose any terms and conditions that it reasonably deems appropriate as a condition of reinstatement or reduction of penalty.

*(f) In considering a petition for reinstatement or modification of a penalty, the board or the administrative law judge shall evaluate and consider evidence of rehabilitation submitted by the petitioner using criteria specified in regulations promulgated by the board.*

*(g) The board may impose, or the administrative law judge may recommend, terms and conditions on the petitioner in reinstating a license, certificate, or permit or in modifying a penalty.*

~~(f)~~ *(h)* The petitioner shall provide a current set of fingerprints accompanied by the necessary fingerprinting fee.

~~(g)~~ *(i)* No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole, or subject to an order of registration pursuant to Section 290 of the Penal Code. No petition shall be considered while there is an accusation or petition to revoke probation pending against the petitioner.

~~(h)~~ *(j)* Except in those cases where the petitioner has been disciplined pursuant to Section 822, the board may in its discretion deny without hearing or argument any petition that is filed pursuant to this section within a period of two years from the effective date of a prior decision following a hearing under this section.

**SEC. 6. Section 2987 of the Business and Professions Code is amended to read:**

**2987.** The amount of the fees prescribed by this chapter shall be determined by the board, and shall be as follows:

(a) The application fee for a psychologist shall not be more than fifty dollars (\$50).

(b) The examination and reexamination fees for the examinations shall be the actual cost to the board of developing, purchasing, and grading of each examination, plus the actual cost to the board of administering each examination.

(c) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

(d) The biennial renewal fee for a psychologist shall be four hundred dollars (\$400). The board may increase the renewal fee to an amount not to exceed five hundred dollars (\$500).

(e) The application fee for registration ~~and supervision of~~ *as* a psychological assistant ~~by a supervisor under Section 2913, which is payable by that supervisor,~~ *under Section 2913* shall not be more than seventy-five dollars (\$75).

(f) The annual renewal fee for registration of a psychological assistant shall not be more than seventy-five dollars (\$75).

(g) The duplicate license or registration fee is five dollars (\$5).

(h) The delinquency fee is ~~twenty-five dollars (\$25).~~ *50 percent of the renewal fee for each license type, not to exceed one hundred fifty dollars (\$150).*

(i) The endorsement fee is five dollars (\$5).

Notwithstanding any other provision of law, the board may reduce any fee prescribed by this section, when, in its discretion, the board deems it administratively appropriate.

**SEC. 7. Section 4008 of the Business and Professions Code is amended to read:**

**4008.** (a) Except as provided by Section 159.5, the board may employ *legal counsel and* inspectors of pharmacy. The inspectors, whether the inspectors are employed by the board or the department's Division of Investigation, may inspect during business hours all pharmacies, wholesalers, dispensaries, stores, or places where drugs or devices are compounded, prepared, furnished, dispensed, or stored.

(b) Notwithstanding subdivision (a), a pharmacy inspector may inspect or examine a physician's office or clinic that does not have a permit under Section 4180 or 4190 only to the extent necessary to determine compliance with and to enforce either Section 4080 or 4081.

(c) (1) (A) A pharmacy inspector employed by the board or in the department's Division of Investigation shall have the authority, as a public officer, to arrest, without warrant, any person whenever the officer has reasonable cause to believe that the person to be arrested has, in his or her presence, violated a provision of this chapter or of Division 10 (commencing with Section 11000) of the Health and Safety Code.

(B) If the violation is a felony, or if the arresting officer has reasonable cause to believe that the person to be arrested has violated any provision that is declared to be a felony, although no felony has in fact been committed, he or she may make an arrest although the violation or suspected violation did not occur in his or her presence.

(2) In any case in which an arrest authorized by this subdivision is made for an offense declared to be a misdemeanor, and the person arrested does not demand to be taken before a magistrate, the arresting inspector may, instead of taking the person before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code. That chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(d) There shall be no civil liability on the part of, and no cause of action shall arise against, a person, acting pursuant to subdivision (a) within the scope of his or her authority, for false arrest or false imprisonment arising out of an arrest that is lawful, or that the arresting officer, at the time of the arrest, had reasonable cause to believe was lawful. An inspector shall not be deemed an aggressor or lose his or her right to self-defense by the use of reasonable force to effect the arrest, to prevent escape, or to overcome resistance.

(e) Any inspector may serve all processes and notices throughout the state.

(f) A pharmacy inspector employed by the board may enter a facility licensed pursuant to subdivision (c) or (d) of Section 1250 of the Health and Safety Code to inspect an automated drug delivery system operated pursuant to Section 4119 or 4119.1.

**SEC. 8. Section 4887 of the Business and Professions Code is amended to read:**

**4887.** (a) *(1)* A person whose license or registration has been revoked or who has been placed on probation may petition the board for reinstatement or modification of penalty including modification or termination of probation after ~~a period of not less than one year~~ *the period as described below in subparagraphs (A) to (C), inclusive,* has elapsed from the effective date of the decision ordering the disciplinary action. The petition shall state ~~such~~ facts as ~~may be~~ required by the board. *The period shall be as follows:*

*(A) At least three years for reinstatement of a surrendered or revoked license.*

*(B) At least two years for early termination or modification of probation of three years or more.*

*(C) At least one year for modification of a condition or termination of probation of less than three years.*

*(2) Notwithstanding paragraph (1), the board may, upon a showing of good cause, specify in a revocation order, a surrender order, or an order imposing probation of more than three years that the person may petition the board for reinstatement or modification or termination of probation after one year.*

(b) The petition shall be accompanied by at least two verified recommendations from veterinarians licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition shall be heard by the board. The board may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities since the license or registration was in good standing, and the petitioner's rehabilitation efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the board finds necessary.

(c) The board reinstating the license or registration or modifying a penalty may impose terms and conditions as it determines necessary. To reinstate a revoked license or registration or to otherwise reduce a penalty or modify probation shall require a vote of five of the members of the board.

(d) The petition shall not be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. The board may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

**SECTION 4. SEC. 9.** Section 5063.3 of the Business and Professions Code is amended to read:

**5063.3.** (a) No confidential information obtained by a licensee, in his or her professional capacity, concerning a client or a prospective client shall be disclosed by the licensee without the written permission of the client or prospective client, except the following:

- (1) Disclosures made by a licensee in compliance with a subpoena or a summons enforceable by order of a court.
- (2) Disclosures made by a licensee regarding a client or prospective client to the extent the licensee reasonably believes it is necessary to maintain or defend himself or herself in a legal proceeding initiated by the client or prospective client.
- (3) Disclosures made by a licensee in response to an official inquiry from a federal or state government regulatory agency.
- (4) Disclosures made by a licensee or a licensee's duly authorized representative to another licensee *or person* in connection with a proposed sale or merger of the licensee's professional ~~practice~~ *practice, provided the parties enter into a written nondisclosure agreement with regard to all client information shared between the parties.*
- (5) Disclosures made by a licensee to either of the following:
  - (A) Another licensee to the extent necessary for purposes of professional consultation.
  - (B) Organizations that provide professional standards review and ethics or quality control peer review.
- (6) Disclosures made when specifically required by law.
- (7) Disclosures specified by the board in regulation.
- (b) In the event that confidential client information may be disclosed to persons or entities outside the United States of America in connection with the services provided, the licensee shall inform the client in writing and obtain the client's written permission for the disclosure.

**SEC. 2. SEC. 10.** Section 5096.9 of the Business and Professions Code is amended to read:

**5096.9.** (a) The board is authorized to adopt regulations to implement, interpret, or make specific the provisions of this article.

(b) The board shall adopt emergency regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to establish policies, guidelines, and procedures to initially implement this article as it goes into effect on July 1, 2013. The adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare. The emergency regulations shall be submitted to the Office of Administrative Law for filing with the Secretary of State in accordance with the Administrative Procedure Act.

*(c) (1) Notwithstanding any other law, to ensure uninterrupted implementation of this article, the board may adopt or amend regulations consistent with Section 100 of Title 1 of the California Code of Regulations to remove or extend the inoperative date of its regulations in Article 3 (commencing with Section 18) of Division 1 of Title 16 of the California Code of Regulations, or to remove the inoperative dates for the regulations in Article 4 (commencing with Section 26) of Division 1 of Title 16 of the California Code of Regulations.*

*(2) Notwithstanding any other law, the Office of Administrative Law shall consider the board's action to remove or extend the inoperative dates of these regulations as a change without regulatory effect as described in Section 100 of Title 1 of the California Code of Regulations that exempts the board from complying with the rulemaking procedure specified in the Administrative Procedure Act (Article 5 (commencing with Section 11346) of Chapter 3.5 Part 1 of Division 3 of Title 2 of the Government Code).*

**SEC. 3. SEC. 11.** Section 5810 of the Business and Professions Code is amended to read:

**5810.** (a) This chapter shall be subject to review by the appropriate policy committees of the Legislature.

(b) This chapter shall remain in effect only until January 1, ~~2018, 2022~~, and as of that date is ~~repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date:~~ *repealed.*

**SEC. 4. SEC. 12.** Section 7332 of the Business and Professions Code is amended to read:

**7332. (a)** An apprentice is any person who is licensed by the board to engage in learning or acquiring a knowledge of barbering, cosmetology, skin care, nail care, or electrology, in a licensed establishment under the supervision of a licensee approved by the board.

*(b) For purposes of this section, "under the supervision of a licensee" means that the apprentice shall be supervised at all times by a licensee approved by the board while performing services in a licensed establishment. At no time shall an apprentice be the only individual working in the establishment. An apprentice that is not being supervised by a licensee, that has been approved by the board to supervise an apprentice, shall be deemed to be practicing unlicensed under this chapter.*

**SEC. 13.** Section 7635 of the Business and Professions Code is amended to read:

**7635. (a)** Any person employed by, or an agent of, a licensed funeral establishment, who consults with the family or representatives of a family of a deceased person for the purpose of arranging for services as set forth in subdivision (a) of Section 7615, shall receive documented training and ~~instruction which~~ *instruction, at least once every three years, that* results in a demonstrated knowledge of all applicable federal and state laws, rules, and regulations including those provisions dealing with vital statistics, the coroner, anatomical gifts, and other laws, rules, and regulations pertaining to the duties of a funeral director. A written outline of the training program, including documented evidence of the training time, place, and participants, shall be maintained in the funeral establishment and shall be available for inspection and comment by an inspector of the bureau.

(b) This section shall not apply to anyone who has successfully passed the funeral director's examination pursuant to Section 7622.

**SEC. 5. SEC. 14.** Section 11302 of the Business and Professions Code is amended to read:

**11302.** For the purpose of applying this part, the following terms, unless otherwise expressly indicated, shall mean and have the following definitions:

(a) ~~"Department" means the Department of Consumer Affairs.~~ *"Affiliate" means any entity that controls, is controlled by, or is under common control with another entity.*

(b) "Appraisal" means ~~a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion in a federally related transaction as to the market value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.~~ *the act or process of developing an opinion of value for real property.*

The term "appraisal" does not include an opinion given by a real estate licensee or engineer or land surveyor in the ordinary course of his or her business in connection with a function for which a license is required under Chapter 7 (commencing with Section 6700) or Chapter 15 (commencing with Section 8700) of Division 3, or Chapter 3 (commencing with Section 10130) or Chapter 7 (commencing with Section 10500) and the opinion shall not be referred to as an appraisal. This part does not apply to a probate referee acting pursuant to Sections 400 to 408, inclusive, of the Probate Code unless the appraised transaction is federally related.

(c) "Appraisal Foundation" means the Appraisal Foundation that was incorporated as an Illinois not-for-profit corporation on November 30, 1987.

(d) (1) "Appraisal management company" means any person or entity that satisfies all of the following conditions:

(A) ~~Maintains an approved list or lists, containing 11 or more independent contractor appraisers licensed or certified pursuant to this part, or employs 11 or more appraisers licensed or certified pursuant to this part.~~ *Provides appraisal management services to creditors or to secondary mortgage market participants, including affiliates.*

(B) ~~Receives requests for appraisals from one or more clients.~~ *Provides those services in connection with valuing a consumer's principal dwelling as security for a consumer credit transaction or incorporating such transactions into securitizations.*



(C) Within a given 12 calendar month period oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a state or 25 or more State-certified or State-licensed appraisers in two or more States, as described in Section 11345.5.

(2) An appraisal management company does not include a department or division of an entity that provides appraisal management services only to that entity.

(3) An appraisal management company that is a subsidiary of an insured depository institution and regulated by a federal financial institution is not required to register with the bureau.

~~(C)~~ (e) ~~For a fee paid by~~ "Appraisal management services" means one or more of ~~its clients, delegates appraisal assignments for completion by its independent contractor or employee appraisers.~~ the following:

(1) Recruiting, selecting, and retaining appraisers.

(2) ~~"Appraisal management company" does not include any of the following, when that person or entity directly contracts with an independent appraiser:~~ Contracting with state-certified or state-licensed appraisers to perform appraisal assignments.

~~(A)~~ (3) Any bank, credit union, trust company, savings and loan association, or industrial loan company doing business under the authority of, or in accordance with, a license, certificate, or charter issued by the United States or any state, district, territory, or commonwealth of the United States that is authorized to transact business in this state. Managing the process of having an appraisal performed, including providing administrative services such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and secondary market participants, collecting fees from creditors and secondary market participants for services provided, and paying appraisers for services performed.

~~(B)~~ (4) Any finance lender or finance broker licensed pursuant to Division 9 (commencing with Section 22000) of the Financial Code, when acting under the authority of that license. Reviewing and verifying the work of appraisers.

~~(C)~~ Any residential mortgage lender or residential mortgage servicer licensed pursuant to Division 20 (commencing with Section 50000) of the Financial Code, when acting under the authority of that license.

~~(D)~~ Any real estate broker licensed pursuant to Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code, when acting under the authority of that license.

~~(3)~~ (f) ~~"Appraisal management company" does not include any person licensed to practice law in this state who is working with or on behalf of a client of that person.~~ "Appraiser panel" means a network, list, or roster of licensed or certified appraisers approved by an appraisal management company to perform appraisals as independent contractors for the appraisal management company. Appraisers on an appraisal management company's "appraiser panel" under this part include both appraisers accepted by the appraisal management company for consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions, and appraisers engaged by the appraisal management company to perform one or more appraisals ~~for that client.~~ in covered transactions or for secondary mortgage market participants in connection with covered transactions. An appraiser is an independent contractor for purposes of this part if the appraiser is treated as an independent contractor by the appraisal management company for purposes of federal income taxation.

~~(e)~~ (g) "Appraisal Subcommittee" means the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(h) "Consumer credit" means credit offered or extended to a consumer primarily for personal, family, or household purposes.

~~(f)~~ (i) "Controlling person" means one or more of the following:

(1) An officer or director of an appraisal management company, or an individual who holds a 10 percent or greater ownership interest in an appraisal management company.

(2) An individual employed, appointed, or authorized by an appraisal management company that has the authority to enter into a contractual relationship with clients for the performance of appraisal services and that has the authority to enter into agreements with independent appraisers for the completion of appraisals.

(3) An individual who possesses the power to direct or cause the direction of the management or policies of an appraisal management company.



*(j) "Course provider" means a person or entity that provides educational courses related to professional appraisal practice.*

*(k) "Covered transaction" means any consumer credit transaction secured by the consumer's principal dwelling.*

*(l) "Creditor" means:*

*(1) A person who regularly extends consumer credit that is subject to a finance charge or is payable by written agreement in more than four installments, not including a down payment, and to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract.*

*(2) A person regularly extends consumer credit if, in any 12-month period, the person originates more than one credit extension for transactions secured by a dwelling.*

*(m) "Department" means the Department of Consumer Affairs.*

~~(g)~~ *(n) "Director" or "chief" means the Chief of the Bureau of Real Estate Appraisers.*

*(o) "Dwelling" means:*

*(1) A residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if it is used as a residence.*

*(2) A consumer can have only one "principal" dwelling at a time. Thus, a vacation or other second home is not a principal dwelling. However, if a consumer buys or builds a new dwelling that will become the consumer's principal dwelling within a year or upon the completion of construction, the new dwelling is considered the principal dwelling for purposes of this section.*

~~(h)~~ *(p) "Federal financial institutions regulatory agency" means the Federal Reserve Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Federal Home Loan Bank System, National Credit Union Administration, and any other agency determined by the director to have jurisdiction over transactions subject to this part.*

*(q) "Federally regulated appraisal management company" means an appraisal management company that is owned and controlled by an insured depository institution, as defined in Section 1813 of Title 12 of the United States Code and regulated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation.*

~~(i)~~ *(r) "Federally related real estate appraisal activity" means the act or process of making or performing an appraisal on real estate or real property in a federally related transaction and preparing an appraisal as a result of that activity.*

~~(j)~~ *(s) "Federally related transaction" means any real estate-related financial transaction which a federal financial institutions regulatory agency engages in, contracts for or regulates and which requires the services of a state licensed real estate appraiser regulated by this part. This term also includes any transaction identified as such by a federal financial institutions regulatory agency.*

~~(k)~~ *(t) "License" means any license, certificate, permit, registration, or other means issued by the bureau authorizing the person to whom it is issued to act pursuant to this part within this state.*

~~(l)~~ *(u) "Licensure" means the procedures and requirements a person shall comply with in order to qualify for issuance of a license and includes the issuance of the license.*

~~(m)~~ *(v) "Office" or "bureau" means the Bureau of Real Estate Appraisers.*

~~(n)~~ *(w) "Registration" means the procedures and requirements with which a person or entity shall comply in order to qualify to conduct business as an appraisal management company.*

*(x) "Secondary mortgage participant" means a guarantor or insurer of mortgage-backed securities, or an underwriter or issuer of mortgage-backed securities. Secondary mortgage market participant only includes an individual investor in a mortgage-backed security if that investor also serves in the capacity of a guarantor, insurer, underwriter, or issuer for the mortgage-backed security.*

~~(o)~~ *(y) "State licensed real estate appraiser" is a person who is issued and holds a current valid license under this part.*

~~(p)~~ (z) "Uniform Standards of Professional Appraisal Practice" are the standards of professional appraisal practice established by the Appraisal Foundation.

~~(q) "Course provider" means a person or entity that provides educational courses related to professional appraisal practice.~~

**SEC. 15.** *Section 11320.5 of the Business and Professions Code is amended to read:*

**11320.5.** No person or entity shall act in the capacity of an appraisal management company ~~without first obtaining or represent itself to the public as an appraisal management company, either in its advertising or through its business name, without~~ a certificate of registration from the office.

~~SEC. 6.~~ **SEC. 16.** Section 11321 of the Business and Professions Code is amended to read:

**11321.** (a) No person other than a state licensed real estate appraiser may assume or use that title or any title, designation, or abbreviation likely to create the impression of state licensure as a real estate appraiser in this state.

(b) No person other than a licensee may sign an ~~appraisal~~ *appraisal in a federally related transaction*. A trainee licensed pursuant to Section 11327 may sign an appraisal *in a federally related transaction* if it is also signed by a licensee.

(c) No person other than a licensee holding a current valid license at the residential level issued under this part to perform, make, or approve and sign an appraisal may use the abbreviation SLREA in his or her real property appraisal business.

(d) No person other than a licensee holding a current valid license at a certified level issued under this part to perform, make, or approve and sign an appraisal may use the term "state certified real estate appraiser" or the abbreviation SCREA in his or her real property appraisal business.

~~SEC. 7.~~ **SEC. 17.** Section 11323 of the Business and Professions Code is amended to read:

**11323.** No licensee shall engage in any appraisal activity ~~in connection with the purchase, sale, transfer, financing, or development of real property~~ if his or her compensation is dependent on or affected by the value conclusion generated by the appraisal.

~~SEC. 8.~~ **SEC. 18.** Section 11324 of the Business and Professions Code is amended to read:

**11324.** An individual who is not a licensee may assist in the preparation of an appraisal *in a federally related transaction* under the following conditions:

(a) The assistance is under the direct supervision of an individual who is a licensed appraiser and the final conclusion as to value is made by a licensed appraiser.

(b) The final appraisal document *in a federally related transaction* is approved and signed, with acceptance of full responsibility, by the supervising individual who is licensed by the state pursuant to this part, identifies the assisting individual, and identifies the scope of work performed by the individual who assisted in preparation of the ~~appraisal~~ *appraisal in a federally related transaction*.

~~SEC. 9.~~ **SEC. 19.** Section 11345 of the Business and Professions Code is amended to read:

**11345.** The director shall adopt regulations governing the process and procedure of applying for registration as an appraisal management company. Applications for a certificate of registration shall require, at a minimum, all of the following:

(a) The name of the person or entity seeking registration.

(b) The business address and telephone number of the person or entity seeking registration.

(c) If the applicant is not a person or entity domiciled in this state, the name and contact number of a person or entity acting as agent for service of process in this state, along with an irrevocable consent to service of process in favor of the office.

(d) The name, address, and contact information for each controlling person ~~employed by~~ *of* the applicant who has operational authority to direct the management of, and establish policies for, the applicant. ~~If the applicant employs more than 10 individuals meeting the criteria of this subdivision, the applicant may list the names,~~

~~addresses, and contact information for the 10 individuals meeting the criteria who hold the greatest level of management responsibility within its organization.~~

**SEC. 20.** *Section 11345.2 of the Business and Professions Code is amended to read:*

**11345.2.** (a) ~~No An~~ individual ~~may shall not~~ act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. *Notwithstanding subdivision (c) of Section 480, if the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code, the bureau may allow the individual to act as a controlling person.*

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date he or she has knowledge of that fact.

~~SEC. 10.~~ **SEC. 21.** *Section 11345.3 of the Business and Professions Code is repealed.*

~~11345.3. The director may not issue a certificate of registration to an appraisal management company unless the appraisal management company confirms in its application for registration that all of its contracts with clients include provision of each of the following as standard business practices, as and where applicable:~~

~~(a) Ensuring that employee appraisers and independent contractor appraisers contracted by the applicant possess all required licenses and certificates from the office.~~

~~(b) Reviewing the work of all employee appraisers and independent contractor appraisers contracted by the applicant to ensure that appraisal services are performed in accordance with the Uniform Standards of Professional Appraisal Practice.~~

~~(c) Maintaining records of each of the following for each service request:~~

~~(1) Date of receipt of the request.~~

~~(2) Name of the person from whom the request was received.~~

~~(3) Name of the client for whom the request was made, if different from the name of the person from whom the request was received.~~

~~(4) The appraiser or appraisers assigned to perform the requested service.~~

~~(5) Date of delivery of the appraisal product to the client.~~

**SEC. 22.** *Section 11345.3 is added to the Business and Professions Code, to read:*

**11345.3.** *All appraisal management companies shall do all of the following:*

(a) *Ensure that all contracted appraisal panel members possess all required licenses and certificates from the office.*

(b) *Establish and comply with processes and controls reasonably designed to ensure that the appraisal management company, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite license, education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type.*

(c) *Direct the appraiser to perform the assignment in accordance with the Uniform Standards of Professional Appraisal Activity.*

(d) *Establish and comply with processes and controls reasonably designed to ensure that the appraisal management company conducts its appraisal management services in accordance with the requirements of Section 129E(a) through (i) of the Truth in Lending Act, 15 U.S.C. 1639e(a) through (i), and regulations thereunder.*

(e) *Engage appraisal panel members with an engagement letter that shall include terms of payment.*

*(f) Appraisal management companies shall maintain all of the following records for each service request:*

- (1) Date of receipt of the request.*
- (2) Name of the person from whom the request was received.*
- (3) Name of the client for whom the request was made, if different from the name of the person from whom the request was received.*
- (4) The appraiser or appraisers assigned to perform the requested service.*
- (5) Date of delivery of the appraisal product to the client.*
- (6) Client contract.*
- (7) Engagement letter.*
- (8) The appraisal report.*

**SEC. 23.** Section 11345.5 is added to the Business and Professions Code, to read:

**11345.5.** For purposes of subdivision (d) of Section 11302 and determining whether, within a 12-month period, an appraisal management company oversees an appraiser panel of more than 15 State-certified or State-licensed appraisers in a State or 25 or more State certified or State licensed appraisers in two or more States:

*(a) An appraiser is deemed part of the appraisal management company's appraiser panel as of the earliest date on which the appraisal management company does either of the following:*

- (1) Accepts the appraiser for the appraisal management company's consideration for future appraisal assignments in covered transactions or for secondary mortgage market participants in connection with covered transactions.*
- (2) Engages the appraiser to perform one or more appraisals on behalf of a creditor for a covered transaction or secondary mortgage market participant in connection with covered transactions.*

*(b) An appraiser who is deemed part of the appraisal management company's appraiser panel pursuant to subdivision (a) is deemed to remain on the panel until the date on which the appraisal management company does either of the following:*

- (1) Sends written notice to the appraiser removing the appraiser from the appraiser panel, with an explanation of its action.*
- (2) Receives written notice from the appraiser asking to be removed from the appraiser panel or notice of the death or incapacity of the appraiser.*

*(c) If an appraiser is removed from an appraisal management company's appraiser panel pursuant to subdivision (b), but the appraisal management company subsequently accepts the appraiser for consideration for future assignments or engages the appraiser at any time during the 12 months after the appraisal management company's removal, the removal will be deemed not to have occurred, and the appraiser will be deemed to have been part of the appraisal management company's appraiser panel without interruption.*

~~**SEC. 13.**~~ **SEC. 24.** Section 11345.6 of the Business and Professions Code is amended to read:

**11345.6.** (a) No ~~registered~~ appraisal management company may alter, modify, or otherwise change a completed appraisal report submitted by an ~~employee appraiser or an independent contractor appraiser, including, without limitation, by doing either of the following:~~ appraiser.

- ~~(1) Permanently removing the appraiser's signature or seal.~~
- ~~(2) Adding information to, or removing information from, the appraisal report with an intent to change the value conclusion.~~

(b) No ~~registered~~ appraisal management company may require an ~~employee or independent contractor~~ appraiser to provide it with the appraiser's digital signature or seal. However, nothing in this subdivision shall be deemed to prohibit an appraiser from voluntarily providing his or her digital signature or seal to another person, to the extent permissible under the Uniform Standards of Professional ~~Appraiser~~ **Appraisal** Practice.

**SEC. 25.** Section 11345.8 is added to the Business and Professions Code, to read:

**11345.8.** *A federally regulated appraisal management company operating in California shall report to the bureau the information the bureau is required to submit to the Appraisal Subcommittee, pursuant to the Appraisal Subcommittee's policies regarding the determination of the Appraisal Management Company Registry fee. The bureau may charge the federally regulated appraisal management company a state fee in an amount not exceed the reasonable regulatory cost to the board for processing and submitting the information. This fee shall be deposited in the Real Estate Appraisers Regulation Fund.*

**~~SEC. 16.~~ SEC. 26.** Section 11422 of the Business and Professions Code is amended to read:

**11422.** The office shall, on or before February 1, 1994, and at least annually thereafter, transmit to the appraisal subcommittee specified in subdivision ~~(e)~~ (g) of Section 11302 a roster of persons licensed pursuant to this part.

**~~SEC. 16.~~ SEC. 27.** Section 12241 of the Business and Professions Code is amended to read:

**12241.** ~~On or before January 1, 2012, the~~ *The* secretary shall establish by regulation an annual administrative fee to recover reasonable administrative and enforcement costs incurred by the department for exercising supervision over and performing investigations in connection with the activities performed pursuant to Sections 12210 and ~~12211.~~ *12211 and to recover reasonable costs incurred by the department for the safekeeping and certification of the state standards pursuant to Section 12304 and for certification services provided pursuant to Sections 12305 and 12310.* This administrative fee shall be collected for every device registered with each county office of weights and measures, and paid to the Department of Food and Agriculture ~~Fund beginning January 1, 2012, and annually thereafter. Fund.~~

**~~SEC. 17.~~ SEC. 28.** Section 12304 of the Business and Professions Code is amended to read:

**12304.** The *department shall keep the* standards of the state ~~shall be kept~~ in a suitable laboratory location or, if transportable, shall ~~be maintained~~ *maintain the standards* under environmental conditions appropriate for maintaining the integrity of the unit of measure represented by the standard. The ~~standards shall be~~ *department shall have the standards* directly certified by the National ~~Bureau~~ *Institute* of Standards ~~and Technology~~ or by any measurement assurance procedures approved by the National ~~Bureau of Standards.~~ *Institute of Standards and Technology.*

**~~SEC. 18.~~ SEC. 29.** Section 12305 of the Business and Professions Code is amended to read:

**12305.** The *department shall use the* standards of the state ~~shall be used~~ to certify similar standards and any dissimilar standards ~~which that~~ are dependent on the values represented by the state standards. Copies of the standards ~~which that~~ have been compared and certified against the state standards shall become working standards ~~which that~~ shall be used in the certification, calibration, and sealing of county field standards, and in the certification, calibration, and sealing of measurement devices submitted by state and local government agencies or by industry.

**~~SEC. 19.~~ SEC. 30.** Section 12310 of the Business and Professions Code is amended to read:

**12310.** The department, or a laboratory designated by the department ~~which that~~ has been certified pursuant to Section ~~12500-7,~~ *12314,* shall certify the standards of the county sealers as often as may be deemed by the ~~director~~ *secretary* to be necessary, based upon a review of statistical data resulting from previous certifications, but in no event shall the period of time between certifications exceed 10 years. In the absence of statistical data, standards shall be certified at least every two years. Sealers shall, upon the request of the department, deliver for testing those standards in their possession ~~which that~~ are used in the discharge of their duties. Direct expenses incurred in the certification process shall be borne by the ~~state,~~ *state or recovered pursuant to Section 12241,* while any incidental expense, such as the cost of transportation, shall be borne by the county whose standards have been certified.

**~~SEC. 20.~~ SEC. 31.** Section 12500 of the Business and Professions Code is amended to read:

**12500.** As used in this chapter the following terms mean:

(a) "Weighing instrument" means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining weight and includes any tool, appliance, or accessory used or connected therewith.

(b) "Measuring instrument" means any device, contrivance, apparatus, or instrument used, or designed to be used, for ascertaining measure and includes any tool, appliance, or accessory used or connected therewith.

(c) "Correct" means any weight or measure or weighing, measuring, or counting instrument which meet all of the tolerance and specification requirements established by the director pursuant to Section 12107.

(d) "Incorrect" means any instrument which fails to meet all of the requirements of Section 12107.

(e) "Commercial purposes" include the determination of the weight, measure, or count of any commodity or thing which is sold on the basis of weight, measure, or count; or the determination of the weight, measure, or count of any commodity or thing upon which determination a charge for service is based. Devices used in a determination upon which a charge for service is based include, but are not limited to, taximeters, odometers, timing devices, parcel scales, shipping scales, and scales used in the payment of agricultural workers.

"Commercial purposes" do not include the determination of the weight, measure, or count of any commodity or thing which is performed within a plant or business as a part of the manufacturing, processing, or preparing for market of that commodity or thing, or the determination of charges for the transmission of letters or parcels of less than 150 pounds, except when that determination is made in the presence of the customer charged for the ~~service~~: *service, or the determination of the weight of any animal or human by a qualified health provider, licensed doctor of veterinary medicine, licensed physician and surgeon, or staff members within the business operations of, and under the supervision of, a licensed doctor of veterinary medicine or licensed physician and surgeon for the purposes of determining the appropriate dosage of any medication or medical treatment or the volume, duration, or application of any medical procedure.*

**SEC. 32.** *No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.*

July 5, 2017

The Honorable Ed Chau  
Chair, Assembly Committee on Privacy and Consumer Protection  
State Capitol, Room 5016  
Sacramento, CA 95814

**RE: SB 547 (Hill) – Professions and Vocations – SUPPORT**

Dear Assembly Member Chau:

The Board of Psychology (Board) is pleased to **SUPPORT** SB 547 (Hill). Among other things, this bill would change who can pay the application fee for Psychological Assistant registrations and would increase the delinquency fee for Psychologists to be in conformity with the majority of other Department of Consumer Affairs (DCA) Boards and Bureaus using the rate methodology specified in Business and Professions Code (BPC) Section 163.5.

Pursuant to the Board's Sunset Bill, SB 1193 (Chapter 484, Statutes of 2016), Psychological Assistants now have one consolidated registration regardless of the number of locations at which they are employed or supervised and applicants are allowed to submit their own registration application instead of requiring their employer to submit an application to employ and supervise them. Current law specifies that the Psychological Assistant's supervisor must pay the application fee for registration and supervision. SB 547 would change this provision to conform to the Board's Sunset Bill and would only specify the registration fee for Psychological Assistants, therefore allowing the Psychological Assistant or their employer/supervisor to pay the registration fee. The Board agreed that since not all Psychological Assistants are paid for their work while accruing supervised hours as a Psychological Assistant in some training settings, it would be reasonable to allow either the Psychological Assistant or their employer/supervisor to pay the application fee based on their individual arrangement.

An additional problem that the Board identified in current law is the artificially low and outdated delinquency fee for Psychologists, which has not been reviewed or adjusted since 1978. The Board found multiple concerns with the current delinquency fee rate and methodology, including the following:

- The current \$25 delinquency fee for Psychologists established in BPC 2987(h) is disproportionately low for Psychologists as compared with Psychological Assistants. The fee for Psychologists equates to six (6) percent of the \$420 renewal fee for an active license but the \$20 delinquency fee for Psychological Assistants equates to 50 percent of the \$40 renewal fee for Psychological Assistants, placing a disproportionately larger penalty for late renewal on the training category than that of the licensed professional.
- The extremely low delinquency fee does not serve as an effective deterrent to renewing late, leaving the Board with a total delinquency rate ranging from 4.4 percent to 5.4 percent for calendar years 2014 through 2016; where it costs the Board \$15 to process each \$25 check for delinquency fees paid via check. While this delinquency rate may seem trivial, Psychologists are often still practicing without a license when they fail to renew on time and sometimes fail to notice their license has expired for months, necessitating additional enforcement review in some cases. A more substantial delinquency fee is more likely to incentivize earlier action by licensees.
- In comparison to other boards, the Board's \$25 delinquency fee is the lowest of all DCA entity license types as a percentage of the total renewal fee.



**SB 547: SUPPORT**

July 5, 2017

- The Board's low delinquency fee for Psychologists and its methodology for establishing that rate are not aligned with the majority of other DCA entities that use the rate methodology of 50 percent of the renewal fee, with a maximum of \$150, as specified in BPC Section 163.5.

SB 547 would remedy these issues with the Board's delinquency fee by setting the Board's delinquency fee for all license and registration types to 50 percent of the renewal fee for each license type, not to exceed \$150. This methodology is in conformity with BPC section 163.5 and aligned with the majority of DCA entities.

By changing who can submit the Psychological Assistant registration fee and remedying the issues with the Board's delinquency fee for Psychologists, SB 547 would make the submission of Psychological Assistant fees more flexible, fair and aligned with the Board's Sunset Bill, and would make the Board's delinquency fee structure more equitable, reasonable, and consistent with other DCA entities.

For these reasons, the Board asks for your support of SB 547 when it is heard in the Assembly Committee on Privacy and Consumer Protection. If you have any questions or concerns, please feel free to contact the Board's Executive Officer, Antonette Sorrick, at (916) 574-7113. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SC Phillips', with a stylized flourish at the end.

STEPHEN C. PHILLIPS, JD, PsyD  
President, Board of Psychology

cc: Members of the Assembly Committee on Privacy and Consumer Protection  
Senator Jerry Hill  
Jennifer Chase, Assembly Committee on Privacy and Consumer Protection  
Jared Yoshiki, Consultant, Assembly Republican Caucus

Date of Hearing: July 11, 2017

ASSEMBLY COMMITTEE ON PRIVACY AND CONSUMER PROTECTION

Ed Chau, Chair

SB 547 (Hill) – As Amended July 5, 2017

SENATE VOTE: 40-0

**SUBJECT:** Professions and vocations: weights and measures

**SUMMARY:** Requires that the fees collected by the Department of Food and Agriculture (DFA) to recover administration costs also include reasonable costs to maintain state weights and measures standards, while also making various technical and substantive changes to the statutes that govern the professional and business licensing boards and bureaus under the jurisdiction of the Department of Consumer Affairs (DCA). Specifically, **this bill:**

- 1) Requires that fees collected by DFA to recover administration costs for county sealers of weights and measures also include reasonable costs to maintain safekeeping and certification of state standards, the physical weights that are used to test the accuracy of commercial devices.
- 2) Clarifies that licensed veterinarians, physicians or their staff members that use of a scale to determine a treatment or medication dosage for a patient is not a use for a “commercial purpose” under the weights and measures law.
- 3) Requires DCA to report annual progress on the transition of state boards and bureaus to a new professional and business licensing platform.
- 4) Removes an obsolete code section for a DCA division that no longer exists.
- 5) Permits the Board of Podiatric Medicine to increase various fees related to certificates to practice podiatric medicine.
- 6) Permits the Board of Registered Nursing to assign petitions for reinstatement or modification to an administrative law judge and explicitly permits the board to employ legal counsel.
- 7) Permits the Board of Psychology to increase the delinquency fee for licenses.
- 8) Permits the Board of Pharmacy to employ legal counsel.
- 9) Changes the timeline of eligibility to file a petition to the Veterinary Medical Board after disciplinary action that resulted in a license or registration being revoked.
- 10) Requires that a Certified Public Accountant (CPA) enter into a written nondisclosure agreement when sharing client information.
- 11) Authorizes the Board of Accountants to adopt or amend regulations to ensure uninterrupted implementation of practice privilege provisions, as specified.
- 12) Extends the California Council for Interior Design Certification sunset date until January 1, 2022.

- 13) Makes a clarifying change to a definition in the Board of Barbering and Cosmetology Act.
- 14) Requires employees or agents of a licensed funeral establishment to receive documented training and instruction relating to the duties of a funeral director at least once every three years.
- 15) Defines multiple terms for the Bureau of Real Estate Appraisers (BREA) and makes various substantive and technical changes to conform to federal regulations for real estate appraisers.
- 16) Prohibits a business from representing itself to the public as an appraisal management company, either in advertising or business name, without a registration certificate.
- 17) Requires that appraisal management companies maintain records for each service request, as specified.
- 18) Requires that federally regulated appraisal management companies operating in California report to the BREA and permits the state to charge a processing fee.
- 19) Declares that no reimbursement is required by this the bill pursuant to Section 6 Article XIII B of the California Constitution.

**EXISTING LAW:**

- 1) Provides for the licensure and regulation of various professions and businesses by some 26 boards, nine bureaus, three committees, two programs, and one commission (boards and bureaus) within DCA under various licensing acts within the Business and Professions Code. (Business and Professions Code (BPC) Section 1 *et seq.*)
- 2) Grants DFA general supervision of the weights and measures and weighing and measuring devices sold or used in the state. (BPC 12100)
- 3) Requires DFA to establish an annual administration fee to recover reasonable administration and enforcement costs incurred by the department to oversee county offices of weights and measures. (BPC 12241)
- 4) Defines “commercial purposes” as including the determination of the weight, measure, or count of any commodity or thing which is sold on the basis of weight, measure, or count; or the determination of the weight, measure, or count of any commodity or thing upon which determination of a charge for service is based. (BPC 12500(e))

**FISCAL EFFECT:** According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, any additional state costs are not significant, and do not and will not require the appropriation of additional state funds, and the bill will cause no significant reduction in revenues.

**COMMENTS:**

- 1) **Purpose of the bill:** This bill is intended to incorporate in one vehicle a wide variety of technical and substantive changes to several boards and bureaus within DCA and the

Weighmaster's Act to align with agency needs and to remove obsolete language. This bill authorizes specific fee changes for DFA and two boards and one bureau within DCA. SB 547 is author-sponsored.

- 2) **Author's statement:** According to the author, "The provisions of this bill are intended to be an 'omnibus' bill, of which make several, substantive and technical changes to a number of Boards and Bureaus under the Department of Consumer Affairs, along with other clarifying changes to the Weighmaster's Act. In addition, this bill serves as the sunset vehicle for the non-profit interior design regulatory program. It is believed that these changes are non-controversial, but because of the substantive nature are better suited for this 'omnibus' vehicle as opposed to a 'Committee' bill."
- 3) **Weights and measures:** The inspection and testing of weighing and measuring devices is overseen by a county sealer of weights and measures. The mission of county sealers is to provide "fair competition and equity in the marketplace" and to ensure consumers reliably get what they paid for. The county department of weights and measures ensures the accuracy of weighing and measuring devices, verifies the price, quantity and labeling of packaged and bulk commodities, and verifies quality, advertising and labeling standards for petroleum products. Sealers and their offices enforce the laws and regulations of the state under the oversight of DFA.

DFA established an annual administration fee to recover reasonable administration and enforcement costs generated from performing supervision and inspections. The department maintains physical standards in a suitable laboratory to be used in the certification, calibration and sealing of county standards. This bill permits DFA to also include reasonable costs incurred by the department for safekeeping and certification of state standards in the annual administrative fee.

The weights and measures program now applies to virtually all weighing and measuring devices used commercially (including gas pumps, water meters, electric meters, truck scales, cattle scales, grocery scales, taxi meters, etc.), with the exception of farm milk tanks and grocery store check-out scanners. This bill clarifies that commercial purposes do not include the determination of a weight of an animal or human by a licensed veterinarian, physician or staff member for the purposes of determining the appropriate medication dosage or medical treatment.

- 4) **Changes to fees:** This bill permits fee increases administered by the Board of Psychology, the Board of Podiatric Medicine, the Bureau of Real Estate Appraisers and DFA.
- 5) **Recent author's amendments:** While not germane to this Committee's jurisdiction, recent author's amendments make technical and substantive changes to five boards and two bureaus within the DCA – all of which falls under the jurisdiction of the Business and Professions Committee. As amended, the Board of Psychology and Board of Podiatric Medicine are permitted to change or increase fees related to licensing. The Board of Registered Nursing (BRN) and Board of Pharmacy are given statutory authority to hire legal counsel. The bill, as amended, also permits BRN to assign petitions for reinstatement or modification to an administrative law judge. According to the author's office, this change will reduce the caseload on the BRN.

In addition, the amended bill makes changes to the Veterinary Practices Act to create a staggered timeline of eligibility to file a petition, which allows the Veterinary Medical Board to assure compliance with probation terms. The bill specifies that employees or agents of licensed funeral establishments receive training every three years. Additionally the bill removes an obsolete code section for a division that no longer exists. Finally, the bill, as amended, requires that the DCA submit an annual progress report to the Legislature on BreEZE, an information technology system project that aims to create an integrated, enterprise-wide enforcement case management and licensing system for all of DCA's boards and bureaus.

- 6) **Arguments in support:** According to the California Agricultural Commissioners and Sealers Association, "Under current law, the funds [from the State Administrative Fee] are derived from a small percentage added to the statutory fee that is collected locally for the purposes of registering and testing scales, pumps, meters and other commercial weighing and measuring devices for accuracy to ensure that consumers are 'getting what they pay for.' The administrative fee is currently used by the Department for state level activities related to BPC 12210 and 12211, which are the sections related to testing and registering of devices as well as package quantity control inspection."

"Under the language added in SB 547, the administrative fee funds would also be eligible to be used for existing storage and maintenance of State standards as well as certification of county standards at the State Metrology Lab."

- 7) **Related legislation:** SB 795 (Galgiani), would have deleted the current sunset date of January 1, 2019, for the authorization of out-of-state CPAs to operate in California without a specified practice privilege. The bill died in the Senate Business, Professions and Economic Development Committee.

SB 800 (Senate Business, Professions and Economic Development Committee), makes non-controversial, minor or technical changes to various provisions within the BPC related to boards within DCA. The bill is pending in the Assembly Business and Professions Committee.

- 8) **Previous legislation:** SB 1039 (Hill), Chapter 799, Statutes of 2016, made several changes to the statutes governing various boards and bureaus under the DCA and included specified fee increases for several boards.
- 9) **Chaptering issues:** This bill is currently in conflict with AB 426 (Ridley-Thomas), SB 795 (Galgiani) and SB 800 (Senate Business and Professions and Economic Development Committee) which amend the same code sections as this bill.
- 10) **Double-referral:** This bill was double-referred to Assembly Business and Professions, where it passed on June 27, 2017, on a 16 to 0 vote.

## REGISTERED SUPPORT / OPPOSITION:

### Support

Board of Podiatric Medicine  
Board of Psychology

California Agricultural Commissioners and Sealers Association

**Opposition**

None on file.

**Analysis Prepared by:** Jennifer Chase / P. & C.P. / (916) 319-2200

July 5, 2017

The Honorable Evan Low  
Chair, Assembly Committee on Business and Professions  
State Capitol, Room 4126  
Sacramento, CA 95814

**RE: SB 547 (Hill) – Professions and Vocations – SUPPORT**

Dear Assembly Member Low:

The Board of Psychology (Board) is pleased to **SUPPORT** SB 547 (Hill). Among other things, this bill would change who can pay the application fee for Psychological Assistant registrations and would increase the delinquency fee for Psychologists to be in conformity with the majority of other Department of Consumer Affairs (DCA) Boards and Bureaus using the rate methodology specified in Business and Professions Code (BPC) Section 163.5.

Pursuant to the Board's Sunset Bill, SB 1193 (Chapter 484, Statutes of 2016), Psychological Assistants now have one consolidated registration regardless of the number of locations at which they are employed or supervised and applicants are allowed to submit their own registration application instead of requiring their employer to submit an application to employ and supervise them. Current law specifies that the Psychological Assistant's supervisor must pay the application fee for registration and supervision. SB 547 would change this provision to conform to the Board's Sunset Bill and would only specify the registration fee for Psychological Assistants, therefore allowing the Psychological Assistant or their employer/supervisor to pay the registration fee. The Board agreed that since not all Psychological Assistants are paid for their work while accruing supervised hours as a Psychological Assistant in some training settings, it would be reasonable to allow either the Psychological Assistant or their employer/supervisor to pay the application fee based on their individual arrangement.

An additional problem that the Board identified in current law is the artificially low and outdated delinquency fee for Psychologists, which has not been reviewed or adjusted since 1978. The Board found multiple concerns with the current delinquency fee rate and methodology, including the following:

- The current \$25 delinquency fee for Psychologists established in BPC 2987(h) is disproportionately low for Psychologists as compared with Psychological Assistants. The fee for Psychologists equates to six (6) percent of the \$420 renewal fee for an active license but the \$20 delinquency fee for Psychological Assistants equates to 50 percent of the \$40 renewal fee for Psychological Assistants, placing a disproportionately larger penalty for late renewal on the training category than that of the licensed professional.
- The extremely low delinquency fee does not serve as an effective deterrent to renewing late, leaving the Board with a total delinquency rate ranging from 4.4 percent to 5.4 percent for calendar years 2014 through 2016; where it costs the Board \$15 to process each \$25 check for delinquency fees paid via check. While this delinquency rate may seem trivial, Psychologists are often still practicing without a license when they fail to renew on time and sometimes fail to notice their license has expired for months, necessitating additional enforcement review in some cases. A more substantial delinquency fee is more likely to incentivize earlier action by licensees.
- In comparison to other boards, the Board's \$25 delinquency fee is the lowest of all DCA entity license types as a percentage of the total renewal fee.



**SB 547: SUPPORT**

July 5, 2017

- The Board's low delinquency fee for Psychologists and its methodology for establishing that rate are not aligned with the majority of other DCA entities that use the rate methodology of 50 percent of the renewal fee, with a maximum of \$150, as specified in BPC Section 163.5.

SB 547 would remedy these issues with the Board's delinquency fee by setting the Board's delinquency fee for all license and registration types to 50 percent of the renewal fee for each license type, not to exceed \$150. This methodology is in conformity with BPC section 163.5 and aligned with the majority of DCA entities.

By changing who can submit the Psychological Assistant registration fee and remedying the issues with the Board's delinquency fee for Psychologists, SB 547 would make the submission of Psychological Assistant fees more flexible, fair and aligned with the Board's Sunset Bill, and would make the Board's delinquency fee structure more equitable, reasonable, and consistent with other DCA entities.

For these reasons, the Board asks for your support of SB 547 when it is heard in the Assembly Committee on Business and Professions. If you have any questions or concerns, please feel free to contact the Board's Executive Officer, Antonette Sorrick, at (916) 574-7113. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'SC Phillips', with a stylized flourish at the end.

STEPHEN C. PHILLIPS, JD, PsyD  
President, Board of Psychology

cc: Members of the Assembly Committee on Business and Professions  
Senator Jerry Hill  
Le Ondra Clark Harvey, PhD, Chief Consultant, Assembly Committee on Business and Professions  
Bill Lewis, Consultant, Assembly Republican Caucus