

MEMORANDUM

DATE	August 4, 2016
TO	Board of Psychology
FROM	 Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #20(h) – AB 2859 (Low) Professions and Vocations; Retired Category; Licenses

Background:

This Bill authorizes any of the boards under the Department of Consumer Affairs to establish by regulation a system for a retired category of license for persons who are not actively engaged in the practice of their profession or vocation. The bill would require that regulation to include specified provisions, including that a retired license be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.

Location: Senate Floor

Status: 08/03/2016 in Senate. Read second time and amended. To third reading.

Action Requested:

As the Board of Psychology has submitted a legislative proposal for a retired license category that meets all of our specific needs, the staff will continue to watch AB 2859.

Attachment B is the language of AB 2859 (Low)

Attachment C is the Senate Floor Analysis for AB 2859 (Low)



California
LEGISLATIVE INFORMATION

AB-2859 Professions and vocations: retired category: licenses. (2015-2016)

SECTION 1. *Section 464 is added to the Business and Professions Code, to read:*

464. (a) *Any of the boards within the department may establish, by regulation, a system for a retired category of licensure for persons who are not actively engaged in the practice of their profession or vocation.*

(b) *The regulation shall contain the following:*

(1) *A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.*

(2) *The holder of a retired license issued pursuant to this section shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.*

(3) *The holder of a retired license shall not be required to renew that license.*

(4) *The board shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.*

(5) *In order for the holder of a retired license issued pursuant to this section to restore his or her license to an active status, the holder of that license shall meet all the following:*

(A) *Pay a fee established by statute or regulation.*

(B) *Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.*

(C) *Comply with the fingerprint submission requirements established by regulation.*

(D) *If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.*

(E) *Complete any other requirements as specified by the board by regulation.*

(c) *A board may upon its own determination, and shall upon receipt of a complaint from any person, investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.*

(d) *Subdivisions (a) and (b) shall not apply to a board that has other statutory authority to establish a retired license.*

THIRD READING

Bill No: AB 2859
Author: Low (D)
Amended: 8/3/16 in Senate
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 9-0, 6/13/16
AYES: Hill, Bates, Block, Gaines, Galgiani, Hernandez, Jackson, Mendoza,
Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/1/16
AYES: Lara, Bates, Beall, Hill, McGuire, Mendoza, Nielsen

ASSEMBLY FLOOR: 79-0, 5/5/16 (Consent) - See last page for vote

SUBJECT: Professions and vocations: retired category: licenses

SOURCE: Author

DIGEST: This bill authorizes any board within the Department of Consumer Affairs (DCA) to establish, by regulation, a system for a retired license for an individual not actively engaged in the practice of his or her profession or vocation.

ANALYSIS:

Existing law:

- 1) Establishes the DCA, which is comprised of 40 regulatory entities (25 boards, nine bureaus, three committees, two programs, and one commission) that license and regulate various professions. (Business and Professions Code (BPC) Sections 100, 101)

- 2) Authorizes boards within the DCA to develop regulations to establish an inactive license category for persons who are not actively engaged in the practice of their profession or vocation. (BPC §§ 462, 701)
- 3) Establishes a retired license for the following professions: physician and surgeon (BPC § 2439); midwifery (BPC § 2518); occupational therapist, occupational therapy assistant (BPC § 2570.17); physical therapy (BPC § 2648.7); optometrists (BPC § 3151); physician assistant (BPC § 3251.3); respiratory therapist (BPC § 3775.3); pharmacist (BPC § 4200.5); marriage and family therapist (BPC § 4984.41); licensed educational psychologist (BPC § 4989.45); licensed professional clinical counselor (BPC § 4999.113); licensed clinical social worker (BPC § 4997.1); accountant (BPC § 5070.1); architect (BPC § 5600.4); fiduciary (BPC § 6542); professional engineer (BPC § 6762.5); and geologist, geophysicist (BPC § 7851).
- 4) Establishes that “board,” as used in any provision of the BPC, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include “bureau,” “commission,” “committee,” “department,” “division,” “examining committee,” “program,” and “agency.” (BPC § 22)

This bill:

- 1) Authorizes any DCA board to promulgate regulations to establish a retired license category for persons who are not actively engaged in the practice of their profession or vocation.
- 2) Requires the regulations to contain the following:
 - a) A retired license shall be issued to a person with either an active license or an inactive license that was not placed on inactive status for disciplinary reasons.
 - b) The holder of a retired license shall not engage in any activity for which a license is required, unless the board, by regulation, specifies the criteria for a retired licensee to practice his or her profession or vocation.
 - c) The holder of a retired license shall not be required to renew that license.

- d) A board shall establish an appropriate application fee for a retired license to cover the reasonable regulatory cost of issuing a retired license.
- e) In order for the holder of a retired license to restore his or her license to an active status, the holder of that license shall meet all the following:
 - i) Pay a fee established by statute or regulation.
 - ii) Certify, in a manner satisfactory to the board, that he or she has not committed an act or crime constituting grounds for denial of licensure.
 - iii) Comply with the fingerprint submission requirements established by regulation.
 - iv) If the board requires completion of continuing education for renewal of an active license, complete continuing education equivalent to that required for renewal of an active license, unless a different requirement is specified by the board.
 - v) Complete any other requirements as specified by the board by regulation.
- 3) Authorizes a board to investigate the actions of any licensee, including a person with a license that either restricts or prohibits the practice of that person in his or her profession or vocation, including, but not limited to, a license that is retired, inactive, canceled, revoked, or suspended.
- 4) Exempts boards with other statutory authority to establish a retired license from specified provisions of this bill.

Background

Current law authorizes all boards to establish an "inactive" license, which allows an individual to hold a license but not practice in their profession. An inactive license may be reactivated under terms specified by the issuing board.

An occupational license can be sent to inactive status for various reasons, including disciplinary. For those individuals who have a clean license at retirement and want to cease renewal because they no longer practice, "inactive" status may have a stigma. The following boards have statutory authorization to establish a retired license:

- 1) Board of Accountancy
- 2) Architects Board
- 3) Board of Behavioral Sciences
- 4) Medical Board of California
- 5) Board of Pharmacy
- 6) Professional Fiduciaries Bureau
- 7) Board for Professional Engineers, Land Surveyors, and Geologists
- 8) Respiratory Care Board
- 9) Occupational Therapy Board
- 10) Physical Therapy Board
- 11) Board of Optometry
- 12) Physician Assistant Board

This bill allows the remaining boards to do this as well, as long as their regulations require a licensee to pay a fee, certify that he or she has not committed an act or crime constituting grounds for denial of licensure, comply with the fingerprint submission requirements established by regulation, complete continuing education and any other requirements specified by the board, as necessary.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee analysis dated August 1, 2016, there are 25 boards, bureaus, and other licensing entities within the DCA that currently do not have a retired license category. For any of those entities that chose to create a retired license category, the following costs are likely to occur:

- Minor one-time costs to adopt regulations establishing a retired license category (various special funds).
- One-time costs between \$15,000 and \$75,000 to make changes to the licensing system to accommodate a new retired license category (various special funds). The potential cost to update information technology systems used to process license applications and renewals will depend both on the size of the board's license population and whether or not the board is using the BreEze licensing system or an internal licensing system.
- Minor revenue losses due to individuals with active licenses shifting to a retired license (various special funds). Currently, there are indications that individual licensees who are effectively retired continue to renew their active license because shifting to an inactive license or allowing their active license to lapse

implies that the licensee may have been subject to some kind of disciplinary action. Therefore, there are likely to be licensees who give up their active license (which requires a biennial renewal with a fee) and apply for a retired license (which is likely to be accompanied by a one-time fee). There are 15 boards within the DCA that currently have a retired license category. The ratio of retired licensees to active licensees for those boards is small (typically less than 1%). Therefore it is likely that the number of licensees who would give up an active license for a retired license would be fairly small as would be any resulting revenue loss. There would also be some revenue loss from individuals giving up an inactive license (who are not inactive due to disciplinary action) in exchange for a retired license.

To the extent that licensees shift to a retired license that does not require renewal and are not engaged in the practice of their profession, the impacted board is likely to see a commensurate reduction in licensing and enforcement activity.

SUPPORT: (Verified 8/3/16)

California Board of Accountancy
Contractors State License Board

OPPOSITION: (Verified 8/3/16)

None received.

ARGUMENTS IN SUPPORT: The Contractors State License Board (CSLB) writes, "CSLB licenses approximately 285,000 licensed contractors. While CSLB does currently have an inactive license option, CSLB believes creating a retired license category would be of interest to its licensees."

ASSEMBLY FLOOR: 79-0, 5/5/16

AYES: Achadjian, Alejo, Travis Allen, Arambula, Atkins, Baker, Bigelow, Bloom, Bonilla, Bonta, Brough, Brown, Burke, Calderon, Campos, Chang, Chau, Chávez, Chiu, Chu, Cooley, Cooper, Dababneh, Dahle, Daly, Dodd, Eggman, Frazier, Gallagher, Cristina Garcia, Eduardo Garcia, Gatto, Gipson, Gomez, Gonzalez, Gordon, Gray, Grove, Hadley, Harper, Roger Hernández, Holden, Irwin, Jones, Jones-Sawyer, Kim, Lackey, Levine, Linder, Lopez, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Melendez, Mullin, Nazarian, Obernolte, O'Donnell, Olsen, Patterson, Quirk, Ridley-Thomas, Rodriguez, Salas, Santiago, Steinorth, Mark Stone, Thurmond, Ting, Wagner, Waldron, Weber, Wilk, Williams, Wood, Rendon

NO VOTE RECORDED: Beth Gaines

Prepared by: Sarah Huchel / B., P. & E.D. / (916) 651-4104
8/3/16 18:05:07

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