

Date of Hearing: January 31, 2012

ASSEMBLY COMMITTEE ON BUDGET
Bob Blumenfield, Chair
SB 98 (Committee on Budget and Fiscal Review) – As Amended: January 26, 2012

SUBJECT: Board of Registered Nursing

SUMMARY: This bill restores the Board of Registered Nursing until 2016. Specifically, this bill:

- 1) Restores the Board of Registered Nursing (BRN) and establishes a new sunset date of January 1, 2016;
- 2) Establishes the BRN within the Department of Consumer Affairs (DCA);
- 3) Re-establishes the terms of office for the nine members of the BRN at four years, but with staggered initial appointments in order to have staggered terms going forward, as follows:
 - a) Senate appointment - public member: 4 years
 - b) Assembly appointment - public member: 4 years
 - c) Governor's appointments:
 - d) #1 – public member: 1 year
 - e) #2 – public member: 5 years
 - f) #3 – RN #1: 2 years
 - g) #4 – RN #2: 3 years
 - h) #5 – nurse educator: 4 years
 - i) #6 and #7 – nurse administrator and advanced practice nurse: Governor's choice on which one serves 2 years and which one serves 3 years for their initial terms
- 4) Ratifies the interagency agreement between the BRN and the Director of Consumer Affairs;
- 5) Provides for an interim executive officer until the board appoints a permanent executive officer, and deems that interim executive officer to be the same person who was serving as executive officer before the board expired;
- 6) Appropriates to the BRN unencumbered funds in the Board of Registered Nursing Fund (Fund) that were appropriated to the BRN in the 2011 Budget Act and \$1,000 from the Fund for the purpose of administering the Nursing Practice Act.

EXISTING LAW:

- 1) Provides for the regulation of various health professions by regulatory boards within the DCA.
- 2) Establishes the Nursing Practice Act, which provides for the certification and regulation of registered nurses, nurse practitioners, and advanced practice nurses by the BRN within the DCA.

- 3) Establishes within the DCA, the Division of Investigation (DOI), to investigate alleged misconduct by licensees of boards. Allows the Director of the DCA to employ such investigators, inspectors, and deputies as are necessary to investigate and prosecute all violations of any law. States Legislative intent that inspectors used by boards are not required to be employees of the DOI, but may be either employees or under contract to the boards.
- 4) Provides that investigators of the DOI and the Medical Board of California and Dental Board of California have the authority of peace officers and that those entities are also authorized to employ individuals who are not peace officers to provide investigative services.
- 5) (Repealed) Specified that the BRN consisted of nine members and that as of January 1, 2012, the BRN would sunset (and be repealed), unless a later enacted statute were to be enacted prior to January 1, 2012. This did not occur. The BRN is subject to review by the Legislature prior to its sunset date.
- 6) Specified that the provision, which provided for the appointment of the Executive Officer for the BRN would be repealed as of January 1, 2012, unless a later enacted statute was enacted before January 1, 2012.

FISCAL EFFECT: Approximately \$30 million (BRN Fund) annually in regulatory costs will continue to be incurred as a result of extending the sunset on the BRN. The BRN is fully-funded with fee revenue.

COMMENTS: The BRN is responsible for regulating the practice of registered nurses (RNs) in California. Currently, there are almost 380,000 licensed RNs in California, with over 23,000 new licenses issued annually, and more than 170,000 licenses renewed annually. The BRN also regulates interim permittees, i.e., applicants who are pending licensure by examination, and temporary licensees, i.e., out-of-state applicants who are pending licensure by endorsement. The interim permit allows the applicant to practice while under the supervision of an RN while awaiting examination results. Similarly, the temporary license enables the applicant to practice registered nursing pending a final decision on the licensure application. The BRN also issues certificates to Clinical Nurse Specialists, Nurse Anesthetists, Nurse Practitioners, Nurse-Midwives and Public Health Nurses. These titles are those most commonly used by the California RNs and use of the titles is protected under the Business and Professions Code. The BRN also issues furnishing numbers to nurse practitioners and nurse midwives to administer prescriptions and lists psychiatric/mental health nurses. In addition to its licensing and certification functions, the BRN also regulates and approves the following entities: 1) California Pre-licensure Registered Nursing Programs; 2) Nurse-Midwifery Programs; 3) Nurse Practitioner Programs; and, 4) Registered Nursing Continuing Education Providers.

The BRN is responsible for implementation and enforcement of the Nursing Practice Act -- the laws and regulations related to nursing education, licensure, practice, and discipline. The BRN implements regulatory programs and performs a variety of activities to protect the public. These programs and activities include, setting registered nurse educational standards for pre-licensure and advanced practice nursing programs, issuing and renewing registered nurse licenses, issuing certificates for advanced practice nurses and public health nurses, taking disciplinary action for

violation of the Nursing Practice Act, and managing a Diversion Program for registered nurses whose practice may be impaired due to chemical dependency or mental illness.

Recognizing that registered nursing is an integral component of the health care delivery system, the BRN seeks to affect public policy by collaborating and interacting with legislators, consumers, health care providers, health care insurers, professional organizations, and other state agencies. According to the BRN, this enhances the Board's ability to interpret the Nursing Practice Act and establish policies for its regulatory programs and activities, which are then implemented by the BRN staff.

The former composition of the BRN included seven members who were appointed by the Governor, one by the Senate Rules Committee and one by the Assembly Speaker. The Board included four public members, two registered nurses in direct patient care practice, an advanced practice registered nurse, a registered nurse educator, and a registered nurse administrator.

The former statute included a sunset on the BRN of January 1, 2012 and no subsequent legislation was passed and signed to extend the sunset. This is due in part to the fact that there was legislation last year (SB 538) to extend it to 2016, as SB 98 does, however SB 538 contained additional provisions that made changes to the operation of the BRN, related to pension benefits, which the Governor objected to and therefore vetoed the bill. In his veto message, the Governor asked the Legislature to send him legislation to restore the BRN as soon as possible.

The dissolution of the BRN means that substantial work in the area of licensing, disciplinary action, and general nursing practice oversight cannot continue. The BRN adopts, amends or rejects proposed decisions by administrative law judges who hear cases on nurse discipline. Now, judges' decisions will automatically take effect if no board action is taken in 100 days. The BRN also approves or rejects settlements reached between attorneys representing nurses accused of misconduct and deputy attorneys general representing the board. Those cases also will be subject to approval by administrative judges whose decisions are final if the board takes no action in 100 days. The DCA continues to do the staff work, such as processing licensing applications and investigating complaints.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file.

Opposition

None on file.

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