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**SENATE COMMITTEE ON  
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**  
Senator Jerry Hill, Chair  
2017 - 2018 Regular

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**Bill No:** AB 1705 **Hearing Date:** July 10, 2017  
**Author:** Committee on Business and Professions  
**Version:** May 30, 2017  
**Urgency:** No **Fiscal:** Yes  
**Consultant:** Elissa Silva

**Subject:** State Board of Guide Dogs for the Blind

**SUMMARY:** Extends the operation of the State Board of Guide Dogs for the Blind by one year, until January 1, 2019, and establishes a task force under the jurisdiction of the Board to determine if there is a continued need for the regulation of guide dog trainers, guide dog schools and fundraising programs, as specified.

**Existing law:**

- 1) Establishes the Board within in the Department of Consumer Affairs (DCA) for the licensing and enforcement of licensees who operate schools for the training of guide dogs and the instruction of persons who are blind and visually impaired in the use of guide dogs. (Business and Professions Code (BPC) § 7200, *et seq.*)
- 2) Requires the Board to consist of seven members appointed by the Governor, of which one member is the Director of Rehabilitation or his or her designated representative; the remaining members are persons who have shown a particular interest in dealing with the problems of persons who are blind or visually impaired and at least three of them are persons who are blind or visually impaired who use guide dogs. (BPC § 7200(a))
- 3) Provides the Board with exclusive authority to issue licenses for the instruction of persons who are blind or visually impaired in the use of guide dogs and for the training of guide dogs for use by persons who are blind and visually impaired, and also provides the Board with exclusive authority to issue licenses to operate schools for the training of guide dogs and the instruction of persons who are blind or visually impaired. (BPC § 7200.5(a))
- 4) Establishes an arbitration procedure pilot project in order to provide a procedure for the resolution of disputes between guide dog users and guide dog schools relating to the continued physical custody and use of a guide dog, as specified. (BPC § 7215.6(a))
- 5) Requires, until January 1, 2018, the Board to prepare a fact sheet which contains the following: (BPC § 7217.7(a)(c))
  - a) A description of the purpose of the Board;
  - b) A description of the Board's role in assisting guide dog users who are victims of alleged guide dog discrimination; and,

- c) A description of the Board's arbitration procedure.
- 6) Requires, until January 1, 2018, the Board to post the factsheet on its website and provide copies to each licensed guide dog school. (BPC § 7215(b)(c))

**This bill:**

- 1) Extends the sunset date of the Board, by one year, until January 1, 2019.
- 2) Deletes the sunset date on the requirement that the Board create a fact sheet about the Board and its purposes, as specified.
- 3) Establishes a task force under the jurisdiction of the Board to examine the role and the mission of the board and if there is a continued need for the regulation of guide dog schools, guide dog trainers, and fundraising programs, and requires the Director of the DCA to appoint the members.
- 4) Makes one other technical and clarifying change.

**FISCAL EFFECT:** According to the Assembly Appropriations Committee analysis dated May 17, 2017:

- 1) Approximately \$214,000 is proposed in the Governor's 2017-18 budget to continue operation of the Board. Annual costs would continue to be incurred in this range for an additional two years (State Board of Guide Dogs for the Blind Fund).
- 2) Minor costs to DCA to convene a task force (Consumer Affairs Fund).

**COMMENTS:**

1. **Purpose.** This is a Committee Bill authored by the Assembly Committee on Business and Professions. According to the Author, "unless legislation is carried this year, to extend the sunset date for the Board, it will be repealed on January 1, 2018. The legislative changes reflected in this bill are solutions to issues raised about the Board in the Assembly Committee on Business and Professions' staff *Background Paper* and during its sunset review hearing on February 27, 2017."
2. **Board of Guide Dogs for the Blind.** The Board was established in 1948 to ensure that blind or visually impaired individuals receive well-trained guide dogs. The Board also confirms that blind or visually impaired individuals are thoroughly trained to be effective and safe guide dog users. Furthermore, the Board was also designed to assure donors of guide dog charities their donations are used for their intended charitable purpose. The Board licenses and regulates: 1) guide dog instructors;  
2) guide dog schools; and, 3) fundraising programs that open new schools as specified in BPC §§ 7200.5-7210.6. Currently, the Board oversees 103 guide dog instructors, including 47 out of state instructors and three guide dog schools. The Board annually inspects all schools, requires new active guide dog instructors to

take written, practical, and oral examinations, and requires instructors to submit proof of eight hours of continuing education (CE) each year to remain licensed. California is the only State that has such a regulatory program.

3. **Joint Oversight Hearings and Sunset Review of DCA Licensing Boards.** In February and March of 2017, the Assembly Committee on Business and Professions and the Senate Committee on Business, Professions and Economic Development (Committees) conducted multiple joint oversight hearings to review 12 regulatory boards within the DCA and one regulatory entity outside of the DCA. The sunset bills are intended to implement legislative changes recommended in the respective background reports drafted by the Committees for the agencies reviewed this year. During the sunset review hearings, the Committees take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. An eligible agency is allowed to sunset unless the Legislature enacts a law to extend, consolidate, or reorganize the eligible agency.
4. **The Sunset Review Process.** The sunset review process provides a formal mechanism for the DCA, the Legislature, the regulatory boards, bureaus and committees, interested parties, and stakeholders to make recommendations for improvements to the authority of consumer protection boards and bureaus. This is performed on a standard four-year cycle and was mandated by SB 2036 (McCorquodale, Chapter 908, Statutes of 1994). Each eligible agency is required to submit to the Committees a report covering the entire period since last reviewed that includes, among other things, the purpose and necessity of the agency and any recommendations of the agency for changes or reorganization in order to better fulfill its purpose. During the sunset review hearings, the Committees take public testimony and evaluate the eligible agency prior to the date the agency is scheduled to be repealed. As currently drafted, this bill proposes to extend the operations of the Board by one year, until January 1, 2019, and require the Board to convene a task force to review the role and function of the Board and report back to the Legislature.
5. **Related Legislation This Session.** SB 796 (Hill, 2016) extends the sunset date for the Naturopathic Medicine Committee and Respiratory Care Board of California to January 1, 2022 and makes statutory changes to improve the effectiveness of these regulatory entities. (*Status: This bill is currently pending the Assembly Committee on Business and Professions.*)

SB 797 (Hill, 2016) does not extend the operation of the BVNPT and would allow the BVNPT, the Executive Officer, the VN Act and PT Law to be repealed as of January 1, 2018. (*Status: This bill was amended in the Assembly with different subject matter and no longer deals with the BVNPT.*)

SB 798 (Hill, 2016) extends the operation of the Medical Board of California (MBC) and Medical Practice Act (MBC Act) until 2022 and subjects the Osteopathic Medical Board of California (OMBC) and Osteopathic Act (OMBC Act) to review by the appropriate policy committees of the Legislature to be performed as if the OMBC Act were scheduled to be repealed as of 2022 and makes various changes to the MBC Act and OMBC Act intended to improve oversight of physicians and

surgeons and osteopathic physicians and surgeons. (Status: *This bill is currently pending the Assembly Committee on Business and Professions.*)

SB 799 (Hill, 2016) extends the sunset date on the Board of Registered Nursing (BRN) and makes statutory changes to improve the effectiveness of these regulatory entities. (Status: *This bill is currently pending the Assembly Committee on Business and Professions.*)

AB 1229 (Low, 2016) clarifies that repeal of the provisions establishing the Board of Vocational Nursing and Psychiatric Technicians (BVNPT or Board) and the BVNPT's authority to appoint an executive officer render the BVNPT's successor entity subject to review by the appropriate policy committees of the Legislature. (Status: *This bill is currently set to be heard in front of this policy committee on July 10, 2017.*)

AB 1706 (Assembly Business and Professions Committee, 2016) changes the date for review of the Board of Chiropractic Examiners (BCE) to January 1, 2022, extends the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (SLPAHAD) and its authority to appoint and Executive Officer (EO) by four years, until January 1, 2022, and extends the sunset dates for the California Board of Occupational Therapy (CBOT) and the Physical Therapy Board of California (PTBC), and the CBOT's and PTBC's authority to appoint an executive officer until January 1, 2022. (Status: *This bill is currently set to be heard in front of this policy committee on July 10, 2017.*)

AB 1708 (Low of the current legislative session) extends the operation of the State Board of Optometry (Board) and the authority to appoint an executive officer (EO), to January 1, 2022; clarifies the Board's inspection authority; permits the Board to query the National Practitioner Data Bank (NPDB) and collect a fee for that purpose; revises the Board's review for out-of-state applicants; and, deletes the Board's requirement to issue a Letter of Sponsorship, as specified. (Status: *This bill is currently set to be heard in front of this policy committee on July 10, 2017.*)

6. **Prior Related Legislation.** SB 1331 (Pavley Chapter, 595, Statutes of 2016), allowed out-of-state personnel to provide follow-up services in California without a license, under specified conditions; revised the composition of the Board to include three, instead of two, representatives of the legally blind or visually impaired community; and, required the Board to create a factsheet that provides specified information about the Board which must be made available to each licensed school to provide to every student receiving training from that school.
7. **Arguments in Support.** The California Board of Guide Dogs for the Blind writes in support based on the introduced version of the bill, "The Board appreciates the Committee's efforts in the oversight process and is working diligently to address issues identified in the sunset report. Primarily the Board is in the process of working with stakeholders to draft amendments to existing ownership and arbitration laws that enhance consumer protection and we look forward to providing that language as soon as possible."

8. **Arguments in Opposition.** The California Council of the Blind writes in opposition to the current version of the bill, “It was the council that initially favored a State Board of Guide Dogs for the blind and supported its existence for many years. Now the board has become not only unnecessary, but a hindrance to many guide dog handlers. Thus, it should be abolished, and in that regard, AB 1705, which would extend the life of the board for one year, should be defeated.”

The California Association of Guide Dog Users writes in opposition, “Currently, in the United States and internationally, guide dog schools subscribe to standards set by the International Federation of Guide Dogs. Fourteen United States-based guide dog schools—including the three guide dog schools in California—and eighty five international schools subscribe to the standards and practices of the IGDF. Accreditation by the IGDF of any guide dog program is accepted globally as representing the highest standard any guide dog program can attain.”

Guide Dogs for the Blind writes in opposition, “Guide dog schools within California are required to pay substantial fees to the Board, as a requirement of operation within the State. However, SB 1331 has exempted schools outside the state that are IGDF certified from paying fees or having to qualify in order to operate within the State. We believe that this is an undue burden on California schools and penalizes us relative to our out-of-state counterparts.”

The National Federation of the Blind of California writes in opposition, “California is the only with a guide dog board, which created an additional set of parallel standards with which guide dog schools must comply. The standards set by the Board are modeled after the IGDF standards. They are duplicative and add nothing to existing IGDF standards.”

Lighthouse for the Blind and Visually Impaired writes in opposition, “Even though no other state government operates a regulatory body analogous to the Guide Dog Board, there is no evidence that the overall quality of service, or the prevalence of fraudulent programs differs between California and other states.”

In addition, numerous individuals have submitted letters of concern to the Committees, many whom are consumers of guide dog services. Issues raised by these individuals include concerns that the regulatory regime of the board has become redundant, because all three schools are subject to oversight by the International Guide Dog Federation; unwillingness by the Board to work with consumers; the Board has outlived its usefulness; and, California is the only state with a guide dog board, which created an additional set of parallel standards with which guide dog schools must comply, among others.

9. **Former Attempt to Sunset the Board and Whether the Board is Still Necessary.** As noted in the Committee Staff’s background paper, according to a previous sunset review of the Board in early 2000, in the mid 1990’s the Joint Legislative Sunset Review Committee recommended, at that time, that the Board sunset on July 1, 1997 based on the following findings: 1) the Board licenses few instructors and has not licensed any new schools or fundraising organizations since the licensing requirements were first enacted; and 2) there appeared to be little problem with unlicensed activity, in part due to the close community related to the

activities of the Board's licensees. Upon its sunset, all of the duties and responsibilities of the Board would have been passed to the DCA under the bureau structure. However,

contrary to the recommendation of the JLSRC, the Board was extended for an additional five years and the issue had not been raised since.

Recently, the Committees have become aware of concerns from consumers of guide dog services about the continuation of the Board. According to historical information provided by the Board, at the time of inception, the guide dog field suffered from many of the same problems the service dog industry is experiencing today. Besides considerable public confusion as to the role and function of guide dogs in public places, a long list of scandalous activities historically characterized the field. Providing dogs with no training; raising funds with no plans to produce trained dogs; selling dogs; accepting people for training and not providing any; and selling unauthorized certification papers were significant features of many of the "guide dogs schools" operating in California to prevent fraudulent charities from establishing guide dog schools.

According to numerous stakeholders who have reached out to the Committees, including a California-licensed school, consumer organizations serving blind or visually impaired persons, and numerous individuals, they note that the original intent of the regulatory board which was established in the late 1940s may no longer be necessary. Stakeholders note that today, the operating guide dog schools across the country are certified through the International Guide Dog Federation and additional regulation in California may be considered duplicative and burdensome.

According to the Board's 2016 Sunset Review Report provided to the Committees, the Board has not received a substantial number of complaints within the last three Fiscal Years (FYs). The Board received one complaint in FY 2013/14, two complaints in FY 2014/15, and four complaints in FY 2015/16 and has not taken disciplinary action against any licensees in that same time frame.

- 10. Author's Proposed Amendments.** As a result of concerns raised by consumers and advocates for the Blind community about the sunset of this Board, and the low disciplinary levels and other reasons for no longer needing a Board to regulate guide dog schools and their instructors, the Author has requested to amend the bill to delete the extension of the Board's operations and instead establish "title protection" for guide dog trainers and instructors by requiring that only persons who are employed by a school that is certified by the International Guide Dog Federation or its successor entity can call themselves a guide dog instructor or guide dog trainer. In addition, the Author proposes to require schools to annually notify the DCA of instructors or trainers. The Author has requested the following amendments:

Strike Section BPC 7200 *et seq.* and insert:

Any person who uses in any sign, business card, or letterhead, or, in an

advertisement, the words "guide dog instructor," "certified guide dog instructor," or any other terms or letters indicating or implying that he or she is an instructor trained in the utilization or training of guide dogs for the blind under the terms of this or any other law or who represents or holds himself or herself out as a guide dog instructor under the terms of this or any other law, without being employed by a guide dog school certified by the International Guide Dog Federation, or a successor entity, is guilty of a misdemeanor.

Definitions:

a) As used in this chapter the term "guide dog instructor" means a person who instructs or trains persons who are blind or visually impaired in the use of guide dogs or who engages in the business of training, selling, hiring, or supplying guide dogs for persons who are blind or visually impaired.

b) As used in this chapter the term "guide dog" means a dog that has been trained or is being trained to assist blind or visually impaired individuals. For the purposes of this chapter "guide dog" is used to describe a "service dog."

Submission of guide dog instructors to the Department of Consumer Affairs:

Annually, no later than September 1, guide dog schools operating within the State of California must submit to the Department of Consumer Affairs a list of all trainers or guide dog instructors employed or contracted by the school to provide training to the blind or visually impaired. The Department may not charge a fee for this collection of data.

In addition, Assemblymember Low has requested that this bill be changed from an Assembly Business and Professions Committee measure to an Author sponsored measure with Assemblymember Low as the Author.

## **SUPPORT AND OPPOSITION:**

### Support:

The California Board of Guide Dogs for the Blind (Introduced Version)

### Opposition:

Guide Dogs for the Blind  
Lighthouse for the Blind and Visually Impaired  
The California association of Guide Dog Users  
The California Council of the Blind  
The National Federation of the Blind of California  
Numerous Individuals