California Board of
PSYCHOLOGY

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MEMORANDUM

DATE	July 7, 2016
TO	Board of Psychology
FROM	Jason Glasspiegel Central Services Coordinator
SUBJECT	Agenda Item #4(i) – 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 Appropriations Committee

Status: In Senate. Read second time and amended. Re-referred to Committee on Appropriations.

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 A is the language of AB 2859 (Low)
Attachment B is the Senate Business, Professions & Economic Development Analysis for AB 2859 (Low)

California LEGISLATIVE INFORMATION

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

SECTION 1. *Section 463 is added to the Business and Professions Code, to read:*

463. *(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) 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.

SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT
Senator Jerry Hill, Chair
2015 - 2016 Regular

Bill No:	AB 2859	**Hearing Date:**	June 13, 2016
Author:	Low		
Version:	February 19, 2016		
Urgency:	No	**Fiscal:**	Yes
Consultant:	Sarah Huchel		

Subject: Professions and vocations: retired category: licenses

SUMMARY: 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.

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 boards, bureaus, commissions, or programs 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) 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.

b) The holder of a retired license shall not be required to renew that license.

c) 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.

FISCAL EFFECT: This bill is keyed "fiscal" by Legislative Counsel. According to the Assembly Committee on Appropriations analysis dated April 27, 2016, this bill will result in minor and absorbable costs to the DCA to update regulations, add license status designations, and update applications as well as minor and absorbable costs to DCA for one-time workload increases associated with IT/BreEZe modifications.

COMMENTS:

1. **Purpose.** The Author is the Sponsor of this bill. According to the Author's office, "Some licensees disfavor the inactive license designation and would prefer a retired license designation." Some DCA boards have current statutory authority to issue a retired license, and this bill would enable the remainder to do so.

2. **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 would allow 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.

3. **Related Legislation**. SB 1194 (Hill) of 2016 authorizes the Board of Psychology to issue a retired license. (*Status: This bill is currently pending in the Assembly Committee on Business and Professions.*)

4. **Prior Legislation**. AB 750 (Low) of 2015 would have allowed all DCA boards to issue a retired license. (*Status: AB 750 was held in the Assembly Committee on Appropriations.*)

   AB 1253 (Steinorth, Chapter 125, Statutes of 2015) established educational and training requirements for an optometrist seeking a license with retired volunteer service designation (volunteer license) who has not held an active license in more than three years.

   AB 2024 (Bonilla, Chapter 336, Statutes of 2014) authorized the Professional Fiduciaries Bureau to establish, by regulation, a system for a retired category of licensure.

   AB 404 (Eggman, Chapter 339, Statutes of 2013) clarified who qualifies for a retired license by specifying that a license must be either active or inactive, and reduces the timeline to restore a retired license from retired to active status from five to three years.

   SB 1215 (Emmerson, Chapter 359, Statutes of 2012) established a retired license status and a retired license with a volunteer service designation for optometrists.

   AB 431 (Ma, Chapter 395, Statutes of 2011) authorized the California Board of Accountancy to establish, by regulation, a system for a retired category of licensure.

SB 2191 (Emmerson, Chapter 548, Statutes of 2010) authorized the Board of Behavioral Sciences to issue a retired license as a marriage and family therapist, educational psychologist, clinical social worker or professional clinical counselor to an applicant who holds a current license or a license eligible for renewal, and established a $40 fee for a retired license.

5. **Recommended Amendments.** This bill uses the terms "boards, bureaus, commissions, or programs," in one section of the bill, and then the term "board" throughout. For consistency, "board" suffices for all.

   - On page 2, line 3, delete ", bureaus, commissions, or programs"

   Although this bill seeks to separate the possible stigma of a license placed on inactive status for disciplinary reasons from those who go inactive due to retirement, there is nothing in the bill that would prevent an individual whose license is on inactive status due to disciplinary reasons to transfer it into a retirement status. The Author may wish to consider the following amendment:

   - On page 2, between lines 7 and 8, insert:

   "(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."

   This bill establishes a baseline for retired license regulations that do not comport with several boards' existing regulations on this topic. To ensure that this bill only affects boards prospectively, the following amendment is recommended:

   - On page 3, line 4, insert:

   "(d) Subsections (a) and (b) shall not apply to boards with statutory authority to establish a retired license as of January 2, 2017."

6. **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."

   California Board of Accountancy (CBA) writes, "The CBA presently has regulations that allow for a licensee to obtain a retired status license. When comparing the CBA's provisions to that which is being proposed in AB 2859, the CBA has additional requirements including:

   - Submission of a $75 application fee.
   - Submission of a renewal application every two years (no fee) to ensure current contact information.
   - Licensee must have had a certified public accountant license for a minimum of 20 years, of which a minimum of five are with the CBA.

"AB 2859 and the CBA provisions for a retired status license are similar in that those in a retired status are not allowed to practice their profession.

"The CBA respectfully requests that the ... language be amended to exclude entities within DCA that have their own laws regarding retired license status. For these reasons, the CBA has taken a support if amended position on AB 2859."

SUPPORT AND OPPOSITION:

Support:

California Board of Accountancy
Contractors State License Board

Opposition:

None on file as of June 7, 2016.

-- END --