

Date of Hearing: January 23, 2020

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Lorena Gonzalez, Chair

AB 1616 (Low) – As Amended January 6, 2020

Policy Committee: Business and Professions

Vote: 18 - 0

Urgency: No

State Mandated Local Program: No

Reimbursable: No

SUMMARY:

This bill requires a professional licensing board under the Department of Consumer Affairs (DCA) that posts information on its internet website about a revoked license due to a criminal conviction to update or remove information about the revoked license should the board receive an expungement order related to the conviction. Specifically, this bill:

- 1) Requires a board that posts disciplinary information on its website to do either of the following within six months of the board receiving a certified copy of an expungement order related to the conviction:
 - a) Post notification of the expungement order and the date it was granted, if the ex-licensee reapplies for licensure or has been granted a new license.
 - b) Remove the original posted information on the license revocation, if the ex-licensee does not currently have a license and does not apply for licensure.
- 2) Requires a person seeking to have their license revocation history updated or removed to pay a fee to the board, at an amount determined by DCA, but not exceeding the reasonable cost of administering the service.
- 3) Specifies the Medical Board of California's internet web site posting requirements take precedence over this bill's provisions, should a conflict occur.

FISCAL EFFECT:

- 1) Unknown costs, but likely in the range of the low tens of thousands of dollars to the low hundreds of thousands of dollars (GF), to DCA boards and bureaus to post notifications of expungement orders on their boards' internet websites. DCA indicates these costs are difficult to estimate because they will vary significantly depending on the need to validate expungement orders.
- 2) Estimated total costs in the low tens of thousands of dollars (GF) to the Office of Information Services (OIS) to update multiple IT platforms to meet the requirements of the bill. These costs will be absorbed by redirecting existing maintenance resources.

COMMENTS:

- 1) **Purpose.** According to the author:

[This bill] is designed to reduce employment barriers for people with previous criminal records who have been rehabilitated and whose conviction has been dismissed, or expunged, through the judicial process. [This bill] allows individuals who were formerly licensed through the state of California to appropriately reflect the record of their rehabilitation as granted by the judicial branch, and improve their opportunity to seek meaningful employment.

- 2) **Background.** Existing law allows boards under DCA to take disciplinary action against a current licensee. Generally, boards may suspend or revoke a license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions or duties of the professions. However, an individual may not be denied a license based on a conviction that has been expunged or dismissed, or if the person has received a certificate of rehabilitation.

To allow for consumer transparency, certain boards under DCA are required to post on their internet websites disciplinary information on a licensee. Members of the public can access information online and check the validity of a license, its issuance and expiration date, and if a licensee has faced disciplinary action from the board.

An expungement generally releases a person convicted of a crime from the negative consequences of a conviction by setting aside a guilty verdict or permit withdrawal of the guilty or nolo contendere plea and dismissing the accusation or complaint. An expungement does not delete or seal the record of conviction. If an entity is authorized to request a criminal background check on an individual, the background check would reveal the expunged conviction, and note the dismissal on the record.

For rehabilitated individuals convicted of a crime, the permanent nature of a criminal record can create challenge in finding employment and stability after incarceration. While an expungement does not eliminate the person's record, it provides a potential opportunity for a rehabilitated individual to secure employment through state licensure.

3) **Prior Legislation.**

AB 2138 (Chiu/Low), Chapter 995, Statutes of 2018, limited a regulatory board's discretion to deny a new license application to cases where the applicant was formally convicted of a substantially related crime or subjected to formal discipline by a licensing board, with offenses older than seven years no longer eligible for license denial, with several enumerated exemptions.

AB 2396 (Bonta), Chapter 737, Statutes of 2014, prohibits a board within DCA from denying a license based solely on a conviction that has been withdrawn, set aside or dismissed by the court.