

Date of Hearing: April 7, 2026

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS
Marc Berman, Chair
AB 1767 (Berman) – As Amended March 19, 2026

SUBJECT: Department of Consumer Affairs: public members of boards: conflicts of interest.

SUMMARY: Defines “close family member” for purposes of existing conflict of interest laws applicable to public members of state licensing boards.

EXISTING LAW:

- 1) Establishes the Department of Consumer Affairs (DCA) within the Business, Consumer Services, and Housing Agency. (Business and Professions Code (BPC) § 100)
- 2) Enumerates various regulatory boards, bureaus, committees, and commissions under the DCA’s jurisdiction. (BPC § 101)
- 3) Establishes a rate of compensation for board members at \$100 per diem. (BPC § 103)
- 4) Requires members of boards within the DCA to take an oath of office. (BPC § 105)
- 5) Provides that for state licensing boards within the DCA, the appointing authority has power to remove from office at any time any member of any board appointed by the appointing authority for continued neglect of duties required by law, or for incompetence, or unprofessional or dishonorable conduct. (BPC § 106)
- 6) Additionally authorizes the Governor to remove from office any member of a licensing board within the DCA if it is shown that the member disclosed questions on the board’s examination to an applicant. (BPC § 106.5)
- 7) Prohibits a public member or lay member on a state licensing board within the DCA from being, or having been within five years of their appointment, any of the following:
 - a) An employer, or an officer, director, or substantially full-time representative of an employer or group of employers, of any licensee of a board, except for a person who maintains infrequent employer status with a licensee, or maintains a client, patient, or customer relationship with a licensee that does not constitute more than two percent of the practice or business of the licensee.
 - b) A person maintaining a contractual relationship with a licensee of a board that would constitute more than two percent of the practice or business of the licensee, or an officer, director, or substantially full-time representative of that person or group of persons.
 - c) An employee of a licensee of a board, or a representative of the employee, except for a person who maintains an infrequent employee relationship or renders professional or related services to a licensee if the employment or service does not constitute more than two percent of the employment or practice of the member of the board.

(BPC § 450)

- 8) Provides that, in order to avoid a potential for a conflict of interest, a public member of a board shall not:
 - a) Be a current or past licensee of that board.
 - b) Be a close family member of a licensee of that board.(BPC § 450.2)
- 9) Prohibits a public member from having any financial interest in any organization subject to regulation by the board of which they are a member. (BPC § 450.3)
- 10) Prohibits a public member or lay member from having been engaged in pursuits which lie within the field of the industry or profession, or have provided representation to the industry or profession, regulated by the board of which they are a member within the preceding five years, or from engaging in those pursuits or provide that representation during their term of office. (BPC § 450.5)
- 11) Allows for a public member to be appointed without regard to age so long as the public member has reached the age of majority prior to appointment. (BPC § 450.6)
- 12) Provides that the term “board” includes a board, advisory board, commission, examining committee, committee or other similarly constituted body exercising powers within the Business and Professions Code. (BPC § 452)
- 13) Requires every newly appointed board member shall, within one year of assuming office, complete a training and orientation program offered by the DCA regarding, among other things, the individual’s functions, responsibilities, and obligations as a member of a board. (BPC § 453)

THIS BILL:

Defines “close family member” for purposes of prohibited conflicts of interest for public member on state licensing boards within the DCA to mean a parent, stepparent, sibling, child by blood, adoption, or marriage, spouse, domestic partner, cohabitant, stepchild, immediate in-law, aunt, uncle, first cousin, grandparent, or grandchild.

FISCAL EFFECT: This bill is keyed nonfiscal by the Legislative Counsel.

COMMENTS:

Purpose. This bill is sponsored by the author. According to the author:

Our state licensing boards all serve a critical mission to protect the public. While the practice acts for each board establish membership composition requirements that include disinterested members of the public, existing law does not clearly define what sort of family relationships could pose a conflict of interest for a public board member. AB 1767 would improve the Business and Professions Code by establishing a clear definition for “close family member,” thereby assuring that all our state licensing boards include members who advocate for the public without any direct or indirect financial influence on their decision making.

Background.

Department of Consumer Affairs. The DCA is a department within the Business, Consumer Services, and Housing Agency that primarily exists to provide administrative support services to the various individual boards, bureaus, and other entities that comprise and fund the department. As of the DCA's most recent annual report to the Legislature, the DCA consists of 36 distinct regulatory entities, including 27 boards, seven bureaus, one commission, and one program. In total, the DCA oversees more than 3.2 million licensees across more than 280 license types falling within the respective jurisdiction of each board, bureau, or other licensing entity. The DCA also administers the Arbitration Certification Program, which currently certifies and monitors twenty third-party arbitration programs to ensure compliance with California law relating to new vehicle warranties.

Public Board Members. State licensing boards are typically comprised of two categories of appointed members. "Professional members" are appointed from within the licensed profession overseen by the board, which provides for expert perspectives and ensures that the actions of licensees are judged by their similarly educated peers. Some state licensing boards additionally have members who are licensed representatives of other boards with a vested interest in a board's decision making. "Public members," meanwhile, are intended to be independent members of the public with no direct or indirect financial interest in the profession being overseen. Out of the twenty healing arts boards placed under the Department of Consumer Affairs, all but four of them feature a majority of professional members.¹

Identifying the appropriate balance of professional and public board members serving on state licensing boards has been heightened concern since 2015, when the Supreme Court of the United States issued a ruling in *North Carolina State Board of Dental Examiners v. Federal Trade Commission (NC Dental)*.² This case originated in 2010 when the Federal Trade Commission (FTC) brought an administrative complaint against the North Carolina State Board of Dental Examiners for its exclusion of non-dentists from the practice of teeth whitening. The FTC alleged that the board's decision was an uncompetitive and unfair method of competition under the Federal Trade Commission Act. In February 2015, the Court agreed with the FTC and determined that the board was not acting as a state agent and could be sued for its actions.

NC Dental placed limitations on the immunity of regulatory boards controlled by active market participants, requiring that "active state supervision" be established as a check against anticompetitive behavior. This is because individuals who are directly affected by their own rulemaking may not be able to detect their biases, purposefully or inadvertently placing their benefit over those of the public. Or, as the Supreme Court stated: "Dual allegiances are not always apparent to an actor."

This bill would add greater clarity to California law in regards to public members of state licensing boards by clarifying the application of existing conflict of interest prohibitions. Under current law, a public member may not be either a current or past licensee of the board, or a "close family member" of a licensee of the board. However, "close family member" is not defined.

¹ The California Acupuncture Board, Board of Behavioral Sciences, and Bureau of Vocational Nursing and Psychiatric Technicians each have a one-member public majority; the Respiratory Care Board has an equal number of licensee and public members, in addition to a physician member.

² *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 574 U.S. 494 (2015)

The definition established for “close family member” in this bill would apply the term to a parent, stepparent, sibling, child by blood, adoption, or marriage, spouse, domestic partner, cohabitant, stepchild, immediate in-law, aunt, uncle, first cousin, grandparent, or grandchild.

Current Related Legislation. AB 686 (Berman) would extend current prohibitions against state cannabis officials having specified financial interests or relationships within the licensed cannabis industry to additional appointed officials within the Department of Cannabis Control. *This bill is pending on the Senate Floor.*

Prior Related Legislation. AB 2060 (Quirk) of 2022 would have changed the membership composition of the Medical Board of California so that a majority of the board consist of public members who are not practicing physicians. *This bill died on the Assembly Floor.*

REGISTERED SUPPORT:

None on file

REGISTERED OPPOSITION:

None on file

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