

Agenda Item # 10.



STATE AND CONSUMER SERVICES AGENCY • ARNOLD SCHWARZENEGGER, GOVERNOR
BOARD OF VOCATIONAL NURSING & PSYCHIATRIC TECHNICIANS
2535 Capitol Oaks Drive, Suite 205, Sacramento, CA 95833-2945
Phone (916) 263-7800 Fax (916) 263-7859 Web www.bvnpt.ca.gov



DATE: September 1, 2010
TO: Board Members
FROM: 
Teresa Bello-Jones
Executive Officer
SUBJECT: **2010 Sunset Review Report**

STATEMENT OF ISSUES

The Board of Vocational Nursing and Psychiatric Technicians must file its 2010 Sunset Review Report with the Senate Committee on Business, Professions & Economic Development (Senate Committee) no later than October 1, 2010.

The Senate Committee requires each Sunset Review Report to contain specific programmatic and statistical information. As such, this memorandum just summarizes the events that occur during Sunset Review. A copy of the Board's final Sunset Review Report will be sent to Board Members on October 1, 2010.

STATUTORY AUTHORITY

Pursuant to Business and Professions (B&P) Code, Sections 2841 and 4501, the Board "shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2012, deletes or extends that date..."

Nine Department of Consumer Affairs' (DCA) boards/commissions are scheduled for Sunset Review in FY 2010/11. They are:

- Accountancy Board
- Architects Board & Landscape Architects Technical Committee
- Athletic Commission
- Contractors State License Board
- Dental Board
- Dental Hygiene Committee
- Engineers, Land Surveyors, Geologists & Geophysicists Board
- Registered Nursing Board
- Vocational Nursing & Psychiatric Technicians Board

Pursuant to AB 2130 (Statutes of 2010, Effective January 1, 2011), Government Code, Sections 9148.51 and 9148.52 specifies the authority of the Joint Sunset Review Committee as follows:

9148.51.

- (a) It is the intent of the Legislature that all existing and proposed eligible agencies, as defined in subdivision (a) of Section 9147.7, be subject to review to evaluate and determine whether each has demonstrated a public need for its continued existence in accordance with enumerated factors and standards as set forth in Article 7.5 (commencing with Section 9147.7).
- (b) If any state board becomes inoperative or is repealed in accordance with the act that added this section, any provision of existing law that provides for the appointment of board members and specifies the qualifications and tenure of board members shall not be implemented and shall have no force or effect while that state board is inoperative or repealed.
- (c) Any provision of law authorizing the appointment of an executive officer by a state board subject to the review described in Article 7.5 (commencing with Section 9147.7), or prescribing his or her duties, shall not be implemented and shall have no force or effect while the applicable state board is inoperative or repealed.

9148.52.

- (a) The Joint Sunset Review Committee established pursuant to Section 9147.7 shall review all eligible agencies.
- (b) The committee shall evaluate and make determinations pursuant to Article 7.5 (commencing with Section 9147.7).
- (c) Pursuant to an evaluation made as specified in this section, the committee shall make a report which shall be available to the public and the Legislature on whether an agency should be terminated, or continued, or whether its functions should be revised or consolidated with those of another agency, and include any other recommendations as necessary to improve the effectiveness and efficiency of the agency. If the committee deems it advisable, the report may include proposed legislative proposals that would carry out its recommendations.

In general, the Joint Sunset Review Committee shall evaluate and determine whether a board or regulatory program has demonstrated a public need for continued existence and the degree of regulation the board or regulatory program implements based on the following factors and minimum standards of performance:

1. Whether regulation by the board is necessary to protect the public health, safety, and welfare.
2. Whether the basis or facts that necessitated the initial licensing or regulation of a practice or profession have changed.
3. Whether other conditions have arisen that would warrant increased, decreased, or the same degree of regulation.
4. If regulation of the profession or practice is necessary, whether existing statutes and regulations establish the least restrictive form of regulation consistent with the public

interest, considering other available regulatory mechanisms, and whether the board rules enhance the public interest and are within the scope of legislative intent.

5. Whether the board operates and enforces its regulatory responsibilities in the public interest and whether its regulatory mission is impeded or enhanced by existing statutes, regulations, policies, practices, or any other circumstances, including budgetary, resource, and personnel matters.
6. Whether an analysis of board operations indicates that the board performs its statutory duties efficiently and effectively.
7. Whether the composition of the board adequately represents the public interest and whether the board encourages public participation in its decisions rather than participation only by the industry and individuals it regulates.
8. Whether the board and its laws or regulations stimulate or restrict competition, and the extent of the economic impact the board's regulatory practices have on the state's business and technological growth.
9. Whether complaint, investigation, powers to intervene, and disciplinary procedures adequately protect the public and whether final dispositions of complaints, investigations, restraining orders, and disciplinary actions are in the public interest; or if it is, instead, self-serving to the profession, industry or individuals being regulated by the board.
10. Whether the scope of practice of the regulated profession or occupation contributes to the highest utilization of personnel and whether entry requirements encourage affirmative action.
11. Whether administrative and statutory changes are necessary to improve board operations to enhance the public interest.

SUMMARY

The following are the *tentative* timelines for the Joint Sunset Review Committee actions:

- ❖ October 1, 2010 – The Board files its Sunset Review Report with the Senate Committee
- ❖ October 2010 – The Senate Committee staff will be responsible for investigating and analyzing information contained in this report, preparing a background paper with issues to be addressed by the Board.
- ❖ November-December 2010 Public Hearings – The Senate Committee will submit preliminary recommendations for the Board and interested parties to consider during scheduled public hearings.
- ❖ January-February 2011 – The Joint Sunset Review Committee will forward its issues and recommendations to the DCA for review.
- ❖ March 2011 – The DCA will then present its recommendations regarding the Board to the Joint Sunset Review Committee for review.
- ❖ April – May 2011 Senate Hearings – The Joint Sunset Review Committee will meet and vote upon the recommendations.