



May 17, 2016

Senator Fran Pavley
State Capitol, Room 5108
Sacramento, CA 95814
Fax: 916-651-4927

RE: SB 1331 - Opposition

Dear Senator Pavley,

Thank you for the opportunity to voice our concerns regarding SB 1331 which will adversely impact the Board's public protection mandate and operations should it be enacted.

On May 9, 2016, the Board voted to continue opposing SB 1331, as amended April 11, 2016.

This bill would increase the required number of guide dog users serving on the seven member Board from two to three and further require that one member be appointed from each the California Council of the Blind and the California affiliate of the National Federation of the Blind. Furthermore, the legislation would require the Governor to take recommendations from those organizations regarding the selection of members. Currently, a majority of members on the Board are guide dog users and there is already representation from those organizations. Based on attendance and participation, the Board feels that there are ample opportunities for community organizations to voice their opinion through the provisions set forth in the Bagley Keene Open Meeting Act. Additionally, individuals and organizations already have sufficient avenues to recommend candidates to fill positions on State boards. There does not appear to be a problem or valid reason to further restrict the candidate pool from which the Governor may draw.

This bill would allow unlicensed persons to provide instruction in the State without first obtaining a license provided that the out-of-state school by which they are employed is certified by the International Guide Dog Federation (IGDF). In 2012, the Board clarified regulations to specifically state that follow-up services are considered instruction. This clarification was the result of the Board identifying that out of state schools were sending unlicensed persons into the state to provide follow-up instruction and services. Follow-up services have fallen under the broad statutory requirement for licensure since the Board was created in 1948; however the Board felt it necessary to specifically address the topic through regulations because there was blatant disregard for the law despite open communication from the Board to several out-of state schools about the licensure requirement. Currently, no other state issues licenses to individuals who train guide dog teams making equivalent sister-state licensing reciprocity or practice privilege impossible.

IGDF certification of a school is not a requirement to conduct business in any state and is fundamentally dissimilar from the Board's licensure process or its regulatory authority. The IGDF has no standardized examination process or criminal background investigation requirement for individual instructors. The IGDF does not have any enforcement authority or jurisdiction over the schools or the individual instructors in each school's employment; it is merely a voluntary membership organization. Based on these facts, the Board cannot ensure consumer protection based solely on the fact that the employer of an unlicensed person is certified by the IGDF. In many instances, instruction takes place in a guide dog user's home. This legislation, if enacted, would allow unlicensed and un-investigated individuals into guide dog user's homes.

The Board currently licenses instructors from eight of the 11 guide dog schools that have teams residing in California. Of the three schools that choose not to have licensed instructors on staff, only two are IGDF



certified meaning that this legislation only reaches an extremely narrow group of consumers in California using guide dogs provided by out-of-state schools who choose not to be licensed by the Board.

The Board exists to ensure the quality of the guide dog industry by setting and enforcing standards for public safety. The Board feels strongly that the examination and licensure of instructors is the best way to ensure that consumers are protected. This bill, in its current form, encourages unlicensed activity, constitutes a de facto deregulation, and ultimately would place at risk the safety of guide dog teams. No one should be exempt from the licensure requirement simply because of a business decision not to obtain licensure. The Board cannot carry out its public protection mandate if it cannot exercise its regulatory authority over the entire industry in California. Current language, while intending to give the Board disciplinary jurisdiction, is illusory as it does not actually provide for disciplinary authority because the Board can only impose discipline, such as probation, suspension, and revocation, upon a license, and not upon an individual exempt from such a license. Further, the intended authority is hollow because the Board will not have necessary information to allow it to exercise the purported authority. The following components, at least, are missing from the legislation:

1. **Fingerprint Requirement:** This bill does not specify that unlicensed persons providing follow-up instruction in California would be subject to the same fingerprinting requirements that applicants and licensees are required to adhere to in Business and Professions Code Section (BPC§) 144. In order to ensure public protection, the Board needs to determine if an unlicensed person has committed an act substantially related to the profession as outlined in BPC§ 7211.9. This determination is ultimately made through both self-certification and a criminal history background check conducted through a fingerprint scan. Without conducting a background check, the Board cannot determine if an out-of-state person should be prohibited from providing services in California.
2. **Timeline:** Current language gives an unlicensed person five business days from the time the person arrives in this state to notify the Board that they are providing unlicensed instruction through the provision in this bill. This means that the unlicensed person will have likely completed instruction and left the State before notifying the Board that unlicensed instruction has taken place. This gives the Board no opportunity to determine if an unlicensed out-of-state person should be prohibited from providing follow-up instruction in California. Except in extreme emergency situations, the Board believes notification should take place at least 5 business days in advance of an unlicensed person's arrival in the State to provide follow-up instruction.
3. **Client Information:** Current language prohibits the Board from requiring that the out-of state unlicensed person provide the name of the consumer receiving follow-up services. While the Board respects the personal privacy of all guide dog users, in certain investigative circumstances, the Board may need to acquire the name and contact information of individuals who have received instruction from an unlicensed person. Strictly prohibiting the Board from obtaining this information puts public protection in jeopardy should the Board learn that an unlicensed person has committed an act substantially related to the profession in the past and would prevent the Board from investigating to determine if the unlicensed person should be prohibited from providing future services in California.
4. **Notification to the Client:** Current language in this bill would require licensed schools to provide clients receiving instruction with a fact sheet outlining specific functions of the Board. The Board thinks that if this requirement is made of licensees, unlicensed persons subject to the Board's disciplinary jurisdiction should make a similar notification specialized to their unique requirements under the law. This would assist the guide dog user should any issues or concerns arise during the course of follow-up instruction.



CALIFORNIA STATE BOARD OF GUIDE DOGS FOR THE BLIND
1625 N. MARKET BLVD., SUITE N-112 | SACRAMENTO, CA 95834
PHONE: 916-574-7826 | FAX: 916-574-7829 | EMAIL: GUIDEDOGBOARD@DCA.CA.GOV
WWW.GUIDEDOGBOARD.CA.GOV



Finally, this bill would require that the Board develop a fact sheet outlining various functions and processes of the Board and require that guide dog schools licensed by the Board distribute the fact sheet to individuals receiving training from their school. While the Board is already developing this content and is not opposed to requiring that schools distribute it, the Board feels this is a regulatory matter and should be addressed as such.

Thank you again for the opportunity to address these very important topics. Please feel free to contact my Executive Officer, Brian Skewis, at (916) 574-7825 if you have any questions.

Sincerely,
ORIGINAL SIGNED BY:
Eric Holm, Board President

cc: Office of Governor Jerry Brown
Senate Standing Committee on Business Professions and Economic Development
California State Senate
Assembly Committee on Business and Professions
Adam Quinonez, Assistant Deputy Director, Legislative and Regulatory Review, Department of Consumer Affairs