

AMENDED IN SENATE APRIL 15, 2013

**SENATE BILL**

**No. 305**

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**Introduced by Senator Price**  
*(Principal coauthor: Assembly Member Gordon)*

February 15, 2013

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An act to amend Sections 2450, 2450.3, 2569, 3010.5, 3014.6, 3685, 3686, 3710, ~~and~~ 3716, ~~and~~ 3765 of, ~~and to add Section 144.5 to~~, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 305, as amended, Price. Healing arts: boards.

*Existing law requires specified regulatory boards within the Department of Consumer Affairs to require an applicant for licensure to furnish to the board a full set of fingerprints in order to conduct a criminal history record check.*

*This bill would additionally authorize those boards to request and receive from a local or state agency certified records of all arrests and convictions, certified records regarding probation, and any and all other related documentation needed to complete an applicant or licensee investigation and would authorize a local or state agency to provide those records to the board upon request.*

~~Existing law, the Osteopathic Act, establishes the Osteopathic Medical Board of California, which issues certificates to, and regulates, osteopathic physicians and surgeons. provides for the licensure and regulation of osteopathic physicians and surgeons by the Osteopathic Medical Board of California.~~

This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature. The bill would require that *the* review be performed as

if ~~those~~ *these* provisions were scheduled to be repealed as of January 1, 2018.

Existing law, the Naturopathic Doctors Act, *until January 1, 2014*, provides for the licensure and regulation of naturopathic doctors by the Naturopathic Medicine Committee within the Osteopathic Medical Board of California. ~~Existing law repeals these provisions on January 1, 2014.~~ Existing law also specifies that the *repeal of the committee is subject subjects it* to review by the appropriate policy committees of the Legislature.

This bill would ~~instead repeal those provisions on January 1, 2018,~~ *extend the operation of these provisions until January 1, 2018,* and make conforming changes.

*Existing law provides for the regulation of dispensing opticians, as defined, by the Medical Board of California.*

*This bill would require that the powers and duties of the board, as provided, be subject to review by the appropriate policy committees of the Legislature. The bill would require that the review be performed as if these provisions were scheduled to be repealed as of January 1, 2018.*

Existing law, *the Optometry Practice Act*, provides for the licensure and regulation of optometrists by the State Board of Optometry. *The Respiratory Care Act* provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. ~~Existing law~~ *Each of those acts* authorizes the board to employ an executive officer. Existing law repeals these provisions on January 1, 2014 and subjects the ~~board~~ *boards* to review by the ~~Joint Sunset Review Committee~~ *Committee on Boards, Commissions, and Consumer Protection*.

This bill would ~~instead repeal those provisions on January 1, 2018,~~ *extend the operation of these provisions until January 1, 2018,* and provide that the ~~committee is subject to~~ *repeal of these provisions subjects the boards* to review by the appropriate policy committees of the Legislature.

*The Respiratory Care Act also prohibits a person from engaging in the practice of respiratory care unless he or she is a licensed respiratory care practitioner. However, the act does not prohibit specified acts, including, among others, the performance of respiratory care services in case of an emergency or self-care by a patient.*

*This bill would additionally authorize the performance of pulmonary function testing by persons who are currently employed by Los Angeles*

county hospitals and have performed pulmonary function testing for at least 15 years.

*This bill would make legislative findings and declarations as to the necessity of a special statute for the persons described above.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 144.5 is added to the Business and  
2 Professions Code, to read:

3     144.5. Notwithstanding any other law, a board described in  
4 Section 144 may request, and is authorized to receive, from a local  
5 or state agency certified records of all arrests and convictions,  
6 certified records regarding probation, and any and all other related  
7 documentation needed to complete an applicant or licensee  
8 investigation. A local or state agency may provide those records  
9 to the board upon request.

10    ~~SECTION 1.~~

11    SEC. 2. Section 2450 of the Business and Professions Code is  
12 amended to read:

13    2450. There is a Board of Osteopathic Examiners of the State  
14 of California, established by the Osteopathic Act, which shall be  
15 known as the Osteopathic Medical Board of California which  
16 enforces this chapter relating to persons holding or applying for  
17 physician’s and surgeon’s certificates issued by the Osteopathic  
18 Medical Board of California under the Osteopathic Act.

19    Persons who elect to practice using the term of suffix “M.D.,”  
20 as provided in Section 2275, shall not be subject to this article,  
21 and the Medical Board of California shall enforce the provisions  
22 of this chapter relating to persons who made the election.

23    Notwithstanding any other law, the powers and duties of the  
24 Osteopathic Medical Board of California, as set forth in this article  
25 and under the Osteopathic Act, shall be subject to review by the  
26 appropriate policy committees of the Legislature. The review shall  
27 be performed as if this chapter were scheduled to be repealed as  
28 of January 1, 2018.

29    ~~SEC. 2.~~

30    SEC. 3. Section 2450.3 of the Business and Professions Code  
31 is amended to read:

1 2450.3. There is within the jurisdiction of the Osteopathic  
2 Medical Board of California a Naturopathic Medicine Committee  
3 authorized under the Naturopathic Doctors Act (Chapter 8.2  
4 (commencing with Section 3610)). This section shall become  
5 inoperative on January 1, 2018, and, as of that date is repealed,  
6 unless a later enacted statute that is enacted before January 1, 2018,  
7 deletes or extends that date. Notwithstanding any other provision  
8 of law, the repeal of this section renders the Naturopathic Medicine  
9 Committee subject to review by the appropriate policy committees  
10 of the Legislature.

11 *SEC. 4. Section 2569 of the Business and Professions Code is*  
12 *amended to read:*

13 2569. ~~The~~ *Notwithstanding any other law, the powers and*  
14 *duties of the board, as set forth in this chapter, shall be subject to*  
15 *the review required by Division 1.2 (commencing with Section*  
16 *473): by the appropriate policy committees of the Legislature. The*  
17 *review shall be performed as if this chapter were scheduled to be*  
18 *repealed as of January 1, 2014, as described in Section 473.1, 2018.*

19 *SEC. 5. Section 3010.5 of the Business and Professions Code*  
20 *is amended to read:*

21 3010.5. (a) There is in the Department of Consumer Affairs  
22 a State Board of Optometry in which the enforcement of this  
23 chapter is vested. The board consists of 11 members, five of whom  
24 shall be public members.

25 Six members of the board shall constitute a quorum.

26 (b) The board shall, with respect to conducting investigations,  
27 inquiries, and disciplinary actions and proceedings, have the  
28 authority previously vested in the board as created pursuant to  
29 Section 3010. The board may enforce any disciplinary actions  
30 undertaken by that board.

31 (c) This section shall remain in effect only until January 1, ~~2014,~~  
32 *2018*, and as of that date is repealed, unless a later enacted statute,  
33 that is enacted before January 1, ~~2014,~~ *2018*, deletes or extends  
34 that date. ~~The~~ *Notwithstanding any other law, the repeal of this*  
35 *section renders the board subject to the review required by Division*  
36 *1.2 (commencing with Section 473): by the appropriate policy*  
37 *committees of the Legislature.*

38 *SEC. 6. Section 3014.6 of the Business and Professions Code*  
39 *is amended to read:*

1 3014.6. (a) The board may appoint a person exempt from civil  
2 service who shall be designated as an executive officer and who  
3 shall exercise the powers and perform the duties delegated by the  
4 board and vested in him or her by this chapter.

5 (b) This section shall remain in effect only until January 1, ~~2014,~~  
6 2018, and as of that date is repealed, unless a later enacted statute,  
7 that is enacted before January 1, ~~2014,~~ 2018, deletes or extends  
8 that date.

9 ~~SEC. 3.~~

10 *SEC. 7.* Section 3685 of the Business and Professions Code is  
11 amended to read:

12 3685. Notwithstanding any other law, the repeal of this chapter  
13 renders the committee subject to review by the appropriate policy  
14 committees of the Legislature.

15 ~~SEC. 4.~~

16 *SEC. 8.* Section 3686 of the Business and Professions Code is  
17 amended to read:

18 3686. This chapter shall remain in effect only until January 1,  
19 2018, and as of that date is repealed, unless a later enacted statute,  
20 that is enacted before January 1, 2018, deletes or extends that date.

21 ~~SEC. 5.~~

22 *SEC. 9.* Section 3710 of the Business and Professions Code is  
23 amended to read:

24 3710. (a) The Respiratory Care Board of California, hereafter  
25 referred to as the board, shall enforce and administer this chapter.

26 (b) This section shall remain in effect only until January 1, 2018,  
27 and as of that date is repealed, unless a later enacted statute, that  
28 is enacted before January 1, 2018, deletes or extends that date.  
29 Notwithstanding any other law, the repeal of this section renders  
30 the board subject to review by the appropriate policy committees  
31 of the Legislature.

32 ~~SEC. 6.~~

33 *SEC. 10.* Section 3716 of the Business and Professions Code  
34 is amended to read:

35 3716. The board may employ an executive officer exempt from  
36 civil service and, subject to the provisions of law relating to civil  
37 service, clerical assistants and, except as provided in Section 159.5,  
38 other employees as it may deem necessary to carry out its powers  
39 and duties.

1 This section shall remain in effect only until January 1, 2018,  
2 and as of that date is repealed, unless a later enacted statute, that  
3 is enacted before January 1, 2018, deletes or extends that date.

4 *SEC. 11. Section 3765 of the Business and Professions Code*  
5 *is amended to read:*

6 3765. This act does not prohibit any of the following activities:

7 (a) The performance of respiratory care that is an integral part  
8 of the program of study by students enrolled in approved  
9 respiratory therapy training programs.

10 (b) Self-care by the patient or the gratuitous care by a friend or  
11 member of the family who does not represent or hold himself or  
12 herself out to be a respiratory care practitioner licensed under the  
13 provisions of this chapter.

14 (c) The respiratory care practitioner from performing advances  
15 in the art and techniques of respiratory care learned through formal  
16 or specialized training.

17 (d) The performance of respiratory care in an emergency  
18 situation by paramedical personnel who have been formally trained  
19 in these modalities and are duly licensed under the provisions of  
20 an act pertaining to their speciality.

21 (e) Respiratory care services in case of an emergency.  
22 “Emergency,” as used in this subdivision, includes an epidemic  
23 or public disaster.

24 (f) Persons from engaging in cardiopulmonary research.

25 (g) Formally trained licensees and staff of child day care  
26 facilities from administering to a child inhaled medication as  
27 defined in Section 1596.798 of the Health and Safety Code.

28 (h) The performance by a person employed by a home medical  
29 device retail facility or by a home health agency licensed by the  
30 State Department of Health Services of specific, limited, and basic  
31 respiratory care or respiratory care related services that have been  
32 authorized by the board.

33 (i) *The performance of pulmonary function testing by persons*  
34 *who are currently employed by Los Angeles county hospitals and*  
35 *have performed pulmonary function testing for at least 15 years.*

36 *SEC. 12. The Legislature finds and declares that a special law,*  
37 *as set forth in Section 11 of this act, is necessary and that a general*  
38 *law cannot be made applicable within the meaning of Section 16*  
39 *of Article IV of the California Constitution because of the unique*  
40 *circumstances relating to persons who are currently employed by*

- 1 *Los Angeles county hospitals and have performed pulmonary*
- 2 *function testing for at least 15 years.*

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