

AMENDED IN SENATE APRIL 25, 2013

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SENATE BILL

No. 305

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

February 15, 2013

An act to amend Sections 2450, 2450.3, ~~2569~~, 3010.5, 3014.6, 3685, 3686, 3710, 3716, and ~~3765 of~~, *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, 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 The bill would require that the review be performed as if these provisions were scheduled to be repealed as of January 1, 2018.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 also specifies that the repeal of the committee subjects it to review by the appropriate policy committees of the Legislature.

This bill would 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 The bill would require that the review be performed as if these provisions were scheduled to be repealed as of January 1, 2018.~~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. Each of those acts authorizes the board to employ an executive officer. Existing law repeals these provisions on January 1, 2014 and subjects the boards to review by the Joint Committee on Boards, Commissions, and Consumer Protection.

This bill would extend the operation of these provisions until January 1, 2018, and provide that the 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 SEC. 2. Section 2450 of the Business and Professions Code is
11 amended to read:

12 2450. There is a Board of Osteopathic Examiners of the State
13 of California, established by the Osteopathic Act, which shall be
14 known as the Osteopathic Medical Board of California which
15 enforces this chapter relating to persons holding or applying for
16 physician's and surgeon's certificates issued by the Osteopathic
17 Medical Board of California under the Osteopathic Act.

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

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26 be performed as if this chapter were scheduled to be repealed as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

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

30 2450.3. There is within the jurisdiction of the Osteopathic
31 Medical Board of California a Naturopathic Medicine Committee
32 authorized under the Naturopathic Doctors Act (Chapter 8.2
33 (commencing with Section 3610)). This section shall become
34 inoperative on January 1, 2018, and, as of that date is repealed,
35 unless a later enacted statute that is enacted before January 1, 2018,
36 deletes or extends that date. Notwithstanding any other provision
37 of law, the repeal of this section renders the Naturopathic Medicine

1 Committee subject to review by the appropriate policy committees
2 of the Legislature.

3 ~~SEC. 4. Section 2569 of the Business and Professions Code is~~
4 ~~amended to read:~~

5 ~~2569. Notwithstanding any other law, the powers and duties~~
6 ~~of the board, as set forth in this chapter, shall be subject to review~~
7 ~~by the appropriate policy committees of the Legislature. The review~~
8 ~~shall be performed as if this chapter were scheduled to be repealed~~
9 ~~as of January 1, 2018.~~

10 ~~SEC. 5.~~

11 *SEC. 4.* Section 3010.5 of the Business and Professions Code
12 is amended to read:

13 3010.5. (a) There is in the Department of Consumer Affairs
14 a State Board of Optometry in which the enforcement of this
15 chapter is vested. The board consists of 11 members, five of whom
16 shall be public members.

17 Six members of the board shall constitute a quorum.

18 (b) The board shall, with respect to conducting investigations,
19 inquiries, and disciplinary actions and proceedings, have the
20 authority previously vested in the board as created pursuant to
21 Section 3010. The board may enforce any disciplinary actions
22 undertaken by that board.

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

29 ~~SEC. 6.~~

30 *SEC. 5.* Section 3014.6 of the Business and Professions Code
31 is amended to read:

32 3014.6. (a) The board may appoint a person exempt from civil
33 service who shall be designated as an executive officer and who
34 shall exercise the powers and perform the duties delegated by the
35 board and vested in him or her by this chapter.

36 (b) This section shall remain in effect only until January 1, 2018,
37 and as of that date is repealed, unless a later enacted statute, that
38 is enacted before January 1, 2018, deletes or extends that date.

1 ~~SEC. 7.~~

2 *SEC. 6.* Section 3685 of the Business and Professions Code is
3 amended to read:

4 3685. Notwithstanding any other law, the repeal of this chapter
5 renders the committee subject to review by the appropriate policy
6 committees of the Legislature.

7 ~~SEC. 8.~~

8 *SEC. 7.* Section 3686 of the Business and Professions Code is
9 amended to read:

10 3686. This chapter shall remain in effect only until January 1,
11 2018, and as of that date is repealed, unless a later enacted statute,
12 that is enacted before January 1, 2018, deletes or extends that date.

13 ~~SEC. 9.~~

14 *SEC. 8.* Section 3710 of the Business and Professions Code is
15 amended to read:

16 3710. (a) The Respiratory Care Board of California, hereafter
17 referred to as the board, shall enforce and administer this chapter.

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

24 ~~SEC. 10.~~

25 *SEC. 9.* Section 3716 of the Business and Professions Code is
26 amended to read:

27 3716. The board may employ an executive officer exempt from
28 civil service and, subject to the provisions of law relating to civil
29 service, clerical assistants and, except as provided in Section 159.5,
30 other employees as it may deem necessary to carry out its powers
31 and duties.

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

35 ~~SEC. 11.~~

36 *SEC. 10.* Section 3765 of the Business and Professions Code
37 is amended to read:

38 3765. This act does not prohibit any of the following activities:

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

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

8 (c) The respiratory care practitioner from performing advances
9 in the art and techniques of respiratory care learned through formal
10 or specialized training.

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

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

18 (f) Persons from engaging in cardiopulmonary research.

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

22 (h) The performance by a person employed by a home medical
23 device retail facility or by a home health agency licensed by the
24 State Department of Health Services of specific, limited, and basic
25 respiratory care or respiratory care related services that have been
26 authorized by the board.

27 (i) The performance of pulmonary function testing by persons
28 who are currently employed by Los Angeles County hospitals and
29 have performed pulmonary function testing for at least 15 years.

30 ~~SEC. 12.~~

31 *SEC. 11.* The Legislature finds and declares that a special law,
32 as set forth in Section ~~11~~ 10 of this act, is necessary and that a
33 general law cannot be made applicable within the meaning of
34 Section 16 of Article IV of the California Constitution because of
35 the unique circumstances relating to persons who are currently
36 employed by Los Angeles County hospitals and have performed
37 pulmonary function testing for at least 15 years.

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