

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN ASSEMBLY MAY 11, 2015

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 23, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 684**

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**Introduced by Assembly Members Alejo and Bonilla**

February 25, 2015

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An act to *amend Section 3137 of, and to add and repeal Sections 655.1 and 2556.1 of of*, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 684, as amended, Alejo. Healing arts: licensees: disciplinary actions.

Existing law prohibits a licensed optometrist and a registered dispensing optician from having any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, with each other. Existing law prohibits a licensed optometrist from having any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, either by stock ownership, interlocking directors, trusteeship, mortgage, trust deed, or otherwise with any person who is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, or dispensing opticians of lenses, frames, optical supplies, optometric

appliances or devices or kindred products. Existing law makes a violation of these provisions by a licensed optometrist and any other persons, whether or not a healing arts licensee, who participates with a licensed optometrist subject to a crime.

Under existing law, the Medical Board of California is responsible for the registration and regulation of dispensing opticians. Existing law makes the State Board of Optometry responsible for the licensure of optometrists.

This bill, until January 1, 2017, would ~~prohibit a registered dispensing optician or optometrist~~ *exempt a licensed optometrist or an individual, corporation, or firm operating as a registered dispensing optician licensed or registered before the effective date of the bill, or an employee of such an entity, from being subject to discipline any action* by the Medical Board of California, the State Board of Optometry, ~~or other another state agency agency, or a district attorney~~ with enforcement authority for engaging in any of the aforementioned business relationships. *The bill, with respect to an action subject to the exemption, would toll, for the effective period of the exemption, specific limitation periods imposed on the filing of accusations.*

Existing law makes it unlawful to, among other things, advertise the furnishing of, or to furnish, the services of a refractionist, an optometrist, or a physician and surgeon, or to directly or indirectly employ or maintain on or near the premises used for optical dispensing, a refractionist, an optometrist, a physician and surgeon, or a practitioner of any other profession for the purpose of any examination or treatment of the eyes.

This bill, until January 1, 2017, would ~~prohibit~~ *a an individual, corporation, or firm operating as a registered dispensing optician before the effective date of the bill, or an employee of such an entity,* from being subject to ~~discipline any action~~ for engaging in that aforementioned conduct.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . 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 655.1 is added to the Business and
- 2 Professions Code, to read:

1 655.1. (a) Notwithstanding any other law, no *individual,*  
2 *corporation, or firm operating as a registered* dispensing optician  
3 ~~registered~~ pursuant to Chapter 5.5 (commencing with Section  
4 2550) *before the effective date of this section, or an employee of*  
5 *such an entity, or an optometrist licensed pursuant to Chapter 7*  
6 *(commencing with Section 3000) before the effective date of this*  
7 *section, shall be subject to discipline any action by the Medical*  
8 *Board of California, the State Board of Optometry, or other another*  
9 ~~state agency~~ *agency, or a district attorney, with enforcement*  
10 *authority for engaging in any business relationship prohibited by*  
11 *Section 655.*

12 (b) Nothing in this section shall be construed to imply or suggest  
13 that a registered dispensing optician or optometrist engaging in  
14 any business relationship is in violation of or in compliance with  
15 the law.

16 (c) *This section shall not apply to any business relationships*  
17 *prohibited by Section 655 registered and operating on or after the*  
18 *effective date of this section.*

19 (d) *Nothing in this section shall prohibit an individual,*  
20 *corporation, or firm operating as a registered dispensing optician*  
21 *from engaging in a business relationship with an optometrist*  
22 *licensed pursuant to Chapter 7 (commencing with Section 3000)*  
23 *before the effective date of this section at locations registered with*  
24 *the Medical Board of California before the effective date of this*  
25 *section.*

26 (e)

27 (e) This section shall remain in effect only until January 1, 2017,  
28 and as of that date is repealed, unless a later enacted statute, that  
29 is enacted before January 1, 2017, deletes or extends that date.

30 SEC. 2. Section 2556.1 is added to the Business and Professions  
31 Code, to read:

32 2556.1. (a) Notwithstanding any other law, ~~a person registered~~  
33 *any individual, corporation, or firm operating as a registered*  
34 *dispensing optician under this chapter before the effective date of*  
35 *this section, or an employee of such an entity, shall not be subject*  
36 *to discipline any action for engaging in conduct prohibited by*  
37 *Section 2556, except that a registrant shall be subject to discipline*  
38 *for duplicating or changing lenses without a prescription or order*  
39 *from a person duly licensed to issue the same.*

1 (b) Nothing in this section shall be construed to imply or suggest  
2 that a person registered under this chapter is in violation of or in  
3 compliance with the law.

4 (c) *This section shall not apply to any business relationships*  
5 *prohibited by Section 2556 registered and operating on or after*  
6 *the effective date of this section.*

7 (d) *Nothing in this section shall prohibit an individual,*  
8 *corporation, or firm operating as a registered dispensing optician*  
9 *from engaging in a business relationship with an optometrist*  
10 *licensed pursuant to Chapter 7 (commencing with Section 3000)*  
11 *before the effective date of this section at locations registered with*  
12 *the Medical Board of California before the effective date of this*  
13 *section.*

14 (e)

15 (e) This section shall remain in effect only until January 1, 2017,  
16 and as of that date is repealed, unless a later enacted statute, that  
17 is enacted before January 1, 2017, deletes or extends that date.

18 *SEC. 3. Section 3137 of the Business and Professions Code is*  
19 *amended to read:*

20 3137. (a) Except as otherwise provided in this section, any  
21 accusation filed against a licensee pursuant to Section 11503 of  
22 the Government Code for the violation of any provision of this  
23 chapter shall be filed within three years after the board discovers  
24 the act or omission alleged as the ground for disciplinary action,  
25 or within seven years after the act or omission alleged as the ground  
26 for disciplinary action occurs, whichever occurs first.

27 (b) An accusation filed against a licensee pursuant to Section  
28 11503 of the Government Code alleging fraud or willful  
29 misrepresentation is not subject to the limitation in subdivision  
30 (a).

31 (c) An accusation filed against a licensee pursuant to Section  
32 11503 of the Government Code alleging unprofessional conduct  
33 based on incompetence, gross negligence, or repeated negligent  
34 acts of the licensee is not subject to the limitation in subdivision  
35 (a) upon proof that the licensee intentionally concealed from  
36 discovery his or her incompetence, gross negligence, or repeated  
37 negligent acts.

38 (d) If an alleged act or omission involves any conduct described  
39 in Section 726 committed on a minor, the 10-year limitations period

1 in subdivision (e) shall be tolled until the minor reaches the age  
2 of majority.

3 (e) An accusation filed against a licensee pursuant to Section  
4 11503 of the Government Code alleging conduct described in  
5 Section 726 shall be filed within three years after the board  
6 discovers the act or omission alleged as the ground for disciplinary  
7 action, or within 10 years after the act or omission alleged as the  
8 ground for disciplinary action occurs, whichever occurs first. This  
9 subdivision shall apply to a complaint alleging conduct received  
10 by the board on and after January 1, 2006.

11 (f) In any allegation, accusation, or proceeding described in this  
12 section, the limitations period in subdivision (a) shall be tolled for  
13 the period during which material evidence necessary for  
14 prosecuting or determining whether a disciplinary action would  
15 be appropriate is unavailable to the board due to an ongoing  
16 criminal investigation.

17 (g) *In any allegation, accusation, or proceeding described in*  
18 *this section regarding a violation of Section 655 and subject to*  
19 *Section 655.1, the limitations period in subdivision (a) shall be*  
20 *tolled during the effective period of Section 655.1.*

21 ~~SEC. 3.~~

22 SEC. 4. This act is an urgency statute necessary for the  
23 immediate preservation of the public peace, health, or safety within  
24 the meaning of Article IV of the Constitution and shall go into  
25 immediate effect. The facts constituting the necessity are:

26 In order to protect various businesses, opticians, and optometrists  
27 who engage in a business relationship that is prohibited by Section  
28 655 or 2556 of the Business and Professions Code from discipline  
29 by the Medical Board of California, the State Board of Optometry,  
30 or other state agency with enforcement authority while the  
31 Legislature, with the assistance of appropriate regulatory agencies,  
32 develops a model that will allow California businesses to provide  
33 services to patients and also protect the interests of practitioners,  
34 it is necessary that this act take effect immediately.

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