

ASSEMBLY BILL

No. 2683

Introduced by Assembly Member Hernandez

February 19, 2010

An act to add Section 3070.1 to the Business and Professions Code, relating to optometrists.

LEGISLATIVE COUNSEL'S DIGEST

AB 2683, as introduced, Hernandez. Optometrists.

Existing law, the Optometry Practice Act, provides for the licensure and regulation of optometrists by the State Board of Optometry. A violation of the provisions of the act constitutes a crime. Existing law requires an optometrist, prior to engaging in the practice of optometry, to notify the board in writing of the address or addresses where he or she is to engage, or intends to engage, in the practice of optometry.

This bill would authorize the practice of optometry at a health facility or residential care facility, as defined, provided the optometrist meets specified requirements, including, but not limited to, those related to maintaining a nonresidential primary business office, patient access to, and disclosure of, patient records, and specified recordkeeping requirements. The bill would exempt from the address notification requirements to the board an optometrist who practices in a health facility or residential care facility and who meets the above requirements. Because a violation of those provisions would constitute a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 3070.1 is added to the Business and
2 Professions Code, to read:

3 3070.1. (a) For purposes of this section, the following terms
4 have the following meanings:

5 (1) "Health facility" means any facility, place, or building that
6 is organized, maintained, and operated for the diagnosis, care,
7 prevention, and treatment of human illness, physical or mental,
8 including convalescence and rehabilitation and including care
9 during and after pregnancy, or for any one or more of these
10 purposes, for one or more persons, to which the person or persons
11 are admitted for a 24-hour stay or longer as defined by Section
12 1250 of the Health and Safety Code.

13 (2) "Residential care facility" means any facility licensed by
14 the State Department of Social Services caring for persons who
15 cannot live alone but who do not need extensive medical services.
16 The services provided in these facilities vary according to the needs
17 of the individual, but typically include help with medications and
18 assistance with personal hygiene, dressing, and grooming.
19 Residential care facilities include, but are not limited to, the
20 following:

- 21 (A) Adult residential facilities.
- 22 (B) Adult residential facilities for persons with special health
23 care needs.
- 24 (C) Residential care facilities for the chronically ill.
- 25 (D) Residential care facilities for the elderly.
- 26 (E) Continuing care retirement communities.
- 27 (F) Social rehabilitation facilities.

28 (b) An optometrist may engage in the practice of optometry at
29 any health facility or residential care facility provided that all of
30 the following requirements are satisfied:

31 (1) The optometrist maintains a primary business office, separate
32 from the health facility or residential care facility, that meets all
33 of the following requirements:

1 (A) Is open to the public during normal business hours by
2 telephone and for purposes of billing services or access to patient
3 records.

4 (B) Is licensed to the optometrist or the employer of the
5 optometrist as a local business with the city or county in which it
6 is located.

7 (C) Is registered by the optometrist with the Board of Optometry.

8 (D) Is owned or leased by the optometrist or by the employer
9 of the optometrist.

10 (E) Is not a residential dwelling.

11 (2) The optometrist maintains or discloses patient records in the
12 following manner:

13 (A) Records are maintained and made available to the patient
14 in such a way that the type and extent of services provided to the
15 patient are conspicuously disclosed. The disclosure of records shall
16 be made at or near the time services are rendered and shall be
17 maintained at the primary business office specified in paragraph
18 (1).

19 (B) The optometrist complies with all federal and state laws
20 and regulations regarding the maintenance and protection of
21 medical records, including, but not limited to, the federal Health
22 Insurance Portability and Accountability Act of 1996 (42 U.S.C.
23 Sec. 300gg).

24 (C) Pursuant to Section 3007, the optometrist keeps all necessary
25 records for a minimum of seven years from the date of service in
26 order to disclose fully the extent of services furnished to a patient.
27 Any information included on a printed copy of an original
28 document to a patient shall be certified by the optometrist as being
29 true, accurate, and complete.

30 (D) If a prescription is issued to a patient, records shall be
31 maintained for each prescription as part of the patient's chart,
32 including all of the following information about the optometrist:

33 (i) Name.

34 (ii) Optometrist license number.

35 (iii) The place of practice or primary business office.

36 (iv) Description of the goods and services for which the patient
37 is charged and the amount charged.

38 (E) A copy of any referral or order requesting optometric
39 services for a patient from the health facility's or residential care
40 facility's administrator, director of social services, the attending

1 physician and surgeon, the patient, or a family member shall be
2 kept in the patient’s medical record.

3 (3) The optometrist possesses and appropriately uses the
4 instruments and equipment required for all optometric services
5 and procedures performed within the health facility or residential
6 care facility.

7 (c) An optometrist who satisfies all of the requirements in this
8 section for the practice of optometry at a health facility or
9 residential care facility shall not be required to comply with Section
10 3070 with regard to providing notification to the board of each
11 facility or residential care facility at which he or she practices.

12 SEC. 2. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.