

AMENDED IN ASSEMBLY APRIL 13, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2683**

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**Introduced by Assembly Member Hernandez**

February 19, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2683, as amended, 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 (1) "Health facility" means a health facility as defined in Section  
14 1250 of the Health and Safety Code, exclusive of a hospital defined  
15 in subdivision (a) or (b) of that section.

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

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

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

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

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

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

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

11 (D) Is owned or leased by the optometrist or by the employer  
12 of the optometrist.

13 (E) Is not a residential dwelling.

14 (2) The optometrist maintains or discloses patient records in the  
15 following manner:

16 (A) Records are maintained and made available to the patient  
17 in such a way that the type and extent of services provided to the  
18 patient are conspicuously disclosed. The disclosure of records shall  
19 be made at or near the time services are rendered and shall be  
20 maintained at the primary business office specified in paragraph  
21 (1).

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

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

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

36 (i) Name.

37 (ii) Optometrist license number.

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

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

1 (E) A copy of any referral or order requesting optometric  
2 services for a patient from the health facility's or residential care  
3 facility's administrator, director of social services, the attending  
4 physician and surgeon, the patient, or a family member shall be  
5 kept in the patient's medical record.

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

10 (c) An optometrist who satisfies all of the requirements in this  
11 section for the practice of optometry at a health facility or  
12 residential care facility shall not be required to comply with Section  
13 3070 with regard to providing notification to the board of each  
14 facility or residential care facility at which he or she practices.

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