

Introduced by Senator EmmersonFebruary 22, 2012

An act to amend Sections 3070, 3147, 3147.6, and 3152 of, and to add Sections 3151 and 3151.1 to, the Business and Professions Code, relating to healing arts, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1215, as introduced, Emmerson. Optometry.

Existing law, the Optometry Practice Act, provides for the licensure and regulation of the practice of optometry by the State Board of Optometry. A violation of the act is a crime.

This bill would require the board to issue, upon application and payment of a specified fee not to exceed \$25, a retired license to an optometrist with a current and active license. The bill would prohibit the holder of a retired license from engaging in the practice of optometry. The bill would authorize the holder of a retired license to use only certain titles and would also authorize the holder of such a license to reactivate the license to active status if certain requirements have been met, including the payment of a reactivation fee to be determined by the board. The bill would also require the board to issue, upon application certifying the completion of specified continuing education hours and the payment of a fee not to exceed \$50, a retired license with a volunteer service designation to an optometrist with a retired or current and active license. The bill would make a retired license with a volunteer service designation subject to biennial renewal requirements including the payment of a fee not to exceed \$50 and the certification of, among other things, completion of the required continuing education hours. Because the bill would direct the deposit

of these fees into the Optometry Fund, a continuously appropriated fund, the bill would make an appropriation.

Under existing law, a licensed optometrist is required to notify the board of, among other things, the address or addresses where he or she is to engage or intends to engage in the practice of optometry. Existing law imposes specified issuance, biennial renewal, and delinquency fees concerning a statement of licensure. Existing law exempts a licensed optometrist from this address notification requirement if he or she engages in the temporary practice of optometry, as defined by the board, in certain specified settings.

This bill would eliminate the requirement that a licensed optometrist provide that notification with respect to where he or she intends to engage in the practice of optometry. The bill would also require a licensed optometrist, except as specified, to obtain a statement of licensure from the board to be placed in specified practice locations. The bill would define temporary practice as the practice of optometry at locations other than the optometrist's principal place of practice for limited periods, as specified, and would require a licensed optometrist in temporary practice to submit an application for a statement of licensure if the time period for that practice needs to be extended, as specified.

The bill would make other nonsubstantive, technical and conforming changes.

Because the bill would specify additional requirements under the Optometry Practice Act, the violation of which would be a crime, it 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: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. Section 3070 of the Business and Professions
- 2 Code is amended to read:
- 3 3070. (a) Before engaging in the practice of optometry, each
- 4 licensed optometrist shall notify the board in writing of the address

1 or addresses where he or she is to engage, ~~or intends to engage,~~ in
2 the practice of optometry and, also, of any changes in his or her
3 place of practice. *After providing this address and place of practice*
4 *information to the board, a licensed optometrist shall obtain a*
5 *statement of licensure from the board to be placed in all practice*
6 *locations other than an optometrist's principal place of practice.*
7 *Any licensed optometrist who holds a branch office license is not*
8 *required to obtain a statement of licensure to practice at that*
9 *branch office.* The practice of optometry is the performing or the
10 controlling of any of the acts set forth in Section 3041.

11 (b) A licensed optometrist is not required to provide the
12 notification described in subdivision (a) if he or she engages in
13 the temporary practice of optometry ~~in any of the following~~
14 ~~settings.~~ *“Temporary practice” is defined as the practice of*
15 *optometry at locations other than the optometrist's principal place*
16 *of practice for not more than five calendar days during a 30-day*
17 *period, and not more than 36 days within a calendar year. This*
18 *limitation shall apply to all practice locations where the licensed*
19 *optometrist is engaging in temporary practice, not to each practice*
20 *location individually. If the time period of the temporary practice*
21 *needs to be extended for any reason, the licensed optometrist shall*
22 *submit an application for a statement of licensure to the board*
23 *pursuant to Section 1506 of Title 16 of the California Code of*
24 *Regulations.*

25 ~~(1) A facility licensed by the State Department of Public Health.~~

26 ~~(2) A public institution, including, but not limited to, a school,~~
27 ~~a community college, and federal, state, and local penal and~~
28 ~~correctional facilities.~~

29 ~~(3) A mobile unit that is operated by a governmental agency or~~
30 ~~by a nonprofit or charitable organization.~~

31 ~~(4) The home of a patient who is not ambulatory.~~

32 ~~(5) The practice location of another optometrist that has been~~
33 ~~reported to the board pursuant to this section if the other~~
34 ~~optometrist is ill or on a temporary leave or for any other reason~~
35 ~~approved by the board. The exception under this paragraph is~~
36 ~~limited to a total period at all temporary practice locations of seven~~
37 ~~calendar days during a 30-day period and 84 days during a calendar~~
38 ~~year.~~

39 (c) Notwithstanding Section 3075, an optometrist engaging in
40 the temporary practice of optometry at a location described in

1 subdivision (b) shall carry and present upon demand evidence of
 2 his or her licensure but shall not be required to post his or her
 3 current license or other evidence of current license status issued
 4 by the board.

5 (d) In addition to the information required by Section 3076, a
 6 receipt issued to a patient by an optometrist engaging in the
 7 temporary practice of optometry at a location described in
 8 subdivision (b) shall contain the address of the optometrist’s
 9 primary practice location and the temporary practice location where
 10 the services were provided.

11 ~~(e) “Temporary practice” shall be defined by the board for~~
 12 ~~purposes of this section.~~

13 SEC. 2. Section 3147 of the Business and Professions Code is
 14 amended to read:

15 3147. Except as otherwise provided by Section 114, an expired
 16 license may be renewed at any time within three years after its
 17 expiration, *and a retired license issued for less than three years*
 18 *may be reactivated to active status*, by filing an application for
 19 renewal *or reactivation* on a form prescribed by the board, paying
 20 all accrued and unpaid renewal fees *or reactivation fees determined*
 21 *by the board*, paying any delinquency fees prescribed by the board,
 22 and submitting proof of completion of the required number of
 23 hours of continuing education for the last two years, as prescribed
 24 by the board pursuant to Section ~~3159~~ 3059. Renewal *or*
 25 *reactivation to active status* under this section shall be effective
 26 on the date on which all of those requirements are satisfied. If so
 27 renewed *or reactivated to active status*, the license shall continue
 28 as provided in Sections 3146 and 3147.5.

29 SEC. 3. Section 3147.6 of the Business and Professions Code
 30 is amended to read:

31 3147.6. Except as otherwise provided by Section 114, a license
 32 that is not renewed within three years after its expiration may be
 33 restored ~~thereafter~~, *and a retired license issued for more than three*
 34 *years may be reactivated to active status*, if no fact, circumstance,
 35 or condition exists that, if the license were restored, would justify
 36 its revocation or suspension, provided all of the following
 37 conditions are met:

38 (a) The holder of the expired license *or retired license* is not
 39 subject to denial of a license under Section 480.

1 (b) The holder of the expired license *or retired license* applies
2 in writing for its restoration *or reactivation* on a form prescribed
3 by the board.

4 (c) The holder of the expired license *or retired license* pays the
5 fee or fees as would be required of him or her if he or she were
6 then applying for a license for the first time.

7 (d) The holder of the expired license *or retired license*
8 satisfactorily passes both of the following examinations:

9 (1) The National Board of Examiners in Optometry’s Clinical
10 Skills examination or other clinical examination approved by the
11 board.

12 (2) The board’s jurisprudence examination.

13 (e) After taking and satisfactorily passing the examinations
14 identified in subdivision (d), the holder of the expired license or
15 retired license pays a restoration fee equal to the sum of the license
16 renewal fee in effect on the last regular renewal date for licenses
17 *or a reactivation fee determined by the board*, and any delinquency
18 fees prescribed by the board.

19 SEC. 4. Section 3151 is added to the Business and Professions
20 Code, to read:

21 3151. (a) The board shall issue, upon application and payment
22 of the fee described in Section 3152, a retired license to an
23 optometrist who holds a license that is current and active.

24 (b) A licensee who has been issued a retired license is exempt
25 from continuing education requirements pursuant to Section 3059.
26 The holder of a retired license shall not be required to renew that
27 license.

28 (c) The holder of a retired license shall not engage in the practice
29 of optometry.

30 (d) An optometrist holding a retired license shall only be
31 permitted to use the titles “retired optometrist” or “optometrist,
32 retired.”

33 (e) The holder of a retired license issued for less than three years
34 may reactivate the license to active status if he or she meets the
35 requirements of Section 3147.

36 (f) The holder of a retired license issued for more than three
37 years may reactive the license to active status if he or she satisfies
38 the requirements in Section 3147.6.

39 SEC. 5. Section 3151.1 is added to the Business and Professions
40 Code, to read:

1 3151.1. (a) The board shall issue, upon application and
2 payment of the fee described in Section 3152, a license with retired
3 volunteer service designation to an optometrist who holds a retired
4 license or a license that is current and active.

5 (b) The applicant shall certify on the application that he or she
6 has completed the required number of continuing education hours
7 pursuant to Section 3059.

8 (c) The applicant shall certify on the application that the sole
9 purpose of the license with retired volunteer service designation
10 is to provide voluntary, unpaid optometric services at health fairs,
11 vision screenings, and public service eye programs.

12 (d) The holder of the retired license with volunteer service
13 designation shall submit a biennial renewal application, with a fee
14 fixed by this chapter and certify on each renewal that the required
15 number of continuing education hours pursuant to Section 3059
16 were completed, and certify that the sole purpose of the retired
17 license with volunteer service designation is to provide voluntary,
18 unpaid services as described in subdivision (c).

19 SEC. 6. Section 3152 of the Business and Professions Code is
20 amended to read:

21 3152. The amounts of fees and penalties prescribed by this
22 chapter shall be established by the board in amounts not greater
23 than those specified in the following schedule:

24 (a) The fee for applicants applying for a license shall not exceed
25 two hundred seventy-five dollars (\$275).

26 (b) The fee for renewal of an optometric license shall not exceed
27 five hundred dollars (\$500).

28 (c) The annual fee for the renewal of a branch office license
29 shall not exceed seventy-five dollars (\$75).

30 (d) The fee for a branch office license shall not exceed
31 seventy-five dollars (\$75).

32 (e) The penalty for failure to pay the annual fee for renewal of
33 a branch office license shall not exceed twenty-five dollars (\$25).

34 (f) The fee for issuance of a license or upon change of name
35 authorized by law of a person holding a license under this chapter
36 shall not exceed twenty-five dollars (\$25).

37 (g) The delinquency fee for renewal of an optometric license
38 shall not exceed fifty dollars (\$50).

39 (h) The application fee for a certificate to perform lacrimal
40 irrigation and dilation shall not exceed fifty dollars (\$50).

- 1 (i) The application fee for a certificate to treat glaucoma shall
2 not exceed fifty dollars (\$50).
 - 3 (j) The fee for approval of a continuing education course shall
4 not exceed one hundred dollars (\$100).
 - 5 (k) The fee for issuance of a statement of licensure shall not
6 exceed forty dollars (\$40).
 - 7 (l) The fee for biennial renewal of a statement of licensure shall
8 not exceed forty dollars (\$40).
 - 9 (m) The delinquency fee for renewal of a statement of licensure
10 shall not exceed twenty dollars (\$20).
 - 11 (n) The application fee for a fictitious name permit shall not
12 exceed fifty dollars (\$50).
 - 13 (o) The renewal fee for a fictitious name permit shall not exceed
14 fifty dollars (\$50).
 - 15 (p) The delinquency fee for renewal of a fictitious name permit
16 shall not exceed twenty-five dollars (\$25).
 - 17 (q) *The fee for a retired license shall not exceed twenty-five*
18 *dollars (\$25).*
 - 19 (r) *The fee for a retired license with volunteer designation shall*
20 *not exceed fifty dollars (\$50).*
 - 21 (s) *The biennial renewal fee for a retired license with volunteer*
22 *designation shall not exceed fifty dollars (\$50).*
- 23 SEC. 7. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.