

AMENDED IN SENATE APRIL 12, 2012

SENATE BILL

No. 1215

Introduced by Senator Emmerson

February 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 amended, 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:

1 3070. (a) Before engaging in the practice of optometry, each
2 licensed optometrist shall notify the board in writing of the address
3 or addresses where he or she is to engage in the practice of
4 optometry and, also, of any changes in his or her place of practice.
5 After providing ~~this~~ *the* address *or addresses* and place of practice
6 information to the board, a licensed optometrist shall obtain a
7 statement of licensure from the board to be placed in all practice
8 locations other than an optometrist's principal place of practice.
9 Any licensed optometrist who holds a branch office license is not
10 required to obtain a statement of licensure to practice at that branch
11 office. The practice of optometry is the performing or the
12 controlling of any of the acts set forth in Section 3041.

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

26 (c) Notwithstanding Section 3075, an optometrist engaging in
27 the temporary practice of optometry at a location described in
28 subdivision (b) shall carry and present upon demand evidence of
29 his or her licensure but shall not be required to post his or her
30 current license or other evidence of current license status issued
31 by the board.

32 (d) In addition to the information required by Section 3076, a
33 receipt issued to a patient by an optometrist engaging in the
34 temporary practice of optometry at a location described in
35 subdivision (b) shall contain the address of the optometrist's
36 primary practice location and the temporary practice location where
37 the services were provided.

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

1 3147. Except as otherwise provided by Section 114, an expired
2 license may be renewed at any time within three years after its
3 expiration, and a retired license issued for less than three years
4 may be reactivated to active status, by filing an application for
5 renewal or reactivation on a form prescribed by the board, paying
6 all accrued and unpaid renewal fees or reactivation fees determined
7 by the board, paying any delinquency fees prescribed by the board,
8 and submitting proof of completion of the required number of
9 hours of continuing education for the last two years, as prescribed
10 by the board pursuant to Section 3059. Renewal or reactivation to
11 active status under this section shall be effective on the date on
12 which all of those requirements are satisfied. If so renewed or
13 reactivated to active status, the license shall continue as provided
14 in Sections 3146 and 3147.5.

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

17 3147.6. Except as otherwise provided by Section 114, a license
18 that is not renewed within three years after its expiration may be
19 restored, and a retired license issued for more than three years may
20 be reactivated to active status, if no fact, circumstance, or condition
21 exists that, if the license were restored, would justify its revocation
22 or suspension, provided all of the following conditions are met:

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

25 (b) The holder of the expired license or retired license applies
26 in writing for its restoration or reactivation on a form prescribed
27 by the board.

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

31 (d) The holder of the expired license or retired license
32 satisfactorily passes both of the following examinations:

33 (1) The National Board of Examiners in Optometry's Clinical
34 Skills examination or other clinical examination approved by the
35 board.

36 (2) The board's jurisprudence examination.

37 (e) After taking and satisfactorily passing the examinations
38 identified in subdivision (d), the holder of the expired license or
39 retired license pays a restoration fee equal to the sum of the license
40 renewal fee in effect on the last regular renewal date for licenses

1 or a reactivation fee determined by the board, and any delinquency
2 fees prescribed by the board.

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

5 3151. (a) The board shall issue, upon application and payment
6 of the fee described in Section 3152, a retired license to an
7 optometrist who holds a license that is current and active.

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

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

14 (d) An optometrist holding a retired license shall only be
15 permitted to use the titles “retired optometrist” or “optometrist,
16 retired.”

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

20 (f) The holder of a retired license issued for more than three
21 years may ~~reactive~~ *reactivate* the license to active status if he or
22 she satisfies the requirements in Section 3147.6.

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

25 3151.1. (a) The board shall issue, upon application and
26 payment of the fee described in Section 3152, a license with retired
27 volunteer service designation to an optometrist who holds a retired
28 license or a license that is current and active.

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

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

36 (d) The holder of the retired license with volunteer service
37 designation shall submit a biennial renewal application, with a fee
38 fixed by this chapter and certify on each renewal that the required
39 number of continuing education hours pursuant to Section 3059
40 were completed, and certify that the sole purpose of the retired

1 license with volunteer service designation is to provide voluntary,
2 unpaid services as described in subdivision (c).

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

5 3152. The amounts of fees and penalties prescribed by this
6 chapter shall be established by the board in amounts not greater
7 than those specified in the following schedule:

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

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

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

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

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

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

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

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

25 (i) The application fee for a certificate to treat glaucoma shall
26 not exceed fifty dollars (\$50).

27 (j) The fee for approval of a continuing education course shall
28 not exceed one hundred dollars (\$100).

29 (k) The fee for issuance of a statement of licensure shall not
30 exceed forty dollars (\$40).

31 (l) The fee for biennial renewal of a statement of licensure shall
32 not exceed forty dollars (\$40).

33 (m) The delinquency fee for renewal of a statement of licensure
34 shall not exceed twenty dollars (\$20).

35 (n) The application fee for a fictitious name permit shall not
36 exceed fifty dollars (\$50).

37 (o) The renewal fee for a fictitious name permit shall not exceed
38 fifty dollars (\$50).

39 (p) The delinquency fee for renewal of a fictitious name permit
40 shall not exceed twenty-five dollars (\$25).

1 (q) The fee for a retired license shall not exceed twenty-five
2 dollars (\$25).

3 (r) The fee for a retired license with volunteer designation shall
4 not exceed fifty dollars (\$50).

5 (s) The biennial renewal fee for a retired license with volunteer
6 designation shall not exceed fifty dollars (\$50).

7 SEC. 7. No reimbursement is required by this act pursuant to
8 Section 6 of Article XIII B of the California Constitution because
9 the only costs that may be incurred by a local agency or school
10 district will be incurred because this act creates a new crime or
11 infraction, eliminates a crime or infraction, or changes the penalty
12 for a crime or infraction, within the meaning of Section 17556 of
13 the Government Code, or changes the definition of a crime within
14 the meaning of Section 6 of Article XIII B of the California
15 Constitution.

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