

AMENDED IN ASSEMBLY APRIL 15, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 595

Introduced by Assembly Member Alejo
(Principal coauthor: Assembly Member Dodd)
(Coauthors: Assembly Members Dababneh and Cristina Garcia)
(Coauthor: Senator Bates)

February 24, 2015

An act to amend ~~Section 2555~~ of Section 3077 of, to add Sections 3090.1 and 3109.1 to, to repeal Section 2556 of, and to repeal and add Sections 655 and 2555 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 595, as amended, Alejo. Registered dispensing opticians: ~~certificates. optometrists: practices.~~

(1) *The Optometry Practice Act provides for the licensure and regulation of the practice of optometry by the State Board of Optometry, and makes a violation of the act a crime. Existing law requires individuals, corporations, and firms engaged in the business of filling prescriptions of physicians and surgeons and optometrists for prescription lenses and kindred products to register with the Division of Licensing of the Medical Board of California as a registered dispensing optician, and makes a violation of the provisions governing registered dispensing opticians a crime.*

(2) *Existing law prohibits a licensed optometrist from having any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement, in any form, whether directly or indirectly, with any person licensed as a registered*

dispensing optician, and prohibits 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 a licensed optometrist. Existing law also 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. Under existing law, a violation of the above provisions by a licensed optometrist and any person, whether or not licensed, who participates with a licensed optometrist in violating those provisions constitutes a misdemeanor.

This bill would delete those provisions. The bill instead would prohibit a licensed registered dispensing optician or a manufacturer or distributor of optical goods that is renting or leasing office space to or from, sharing office space with, or receiving space from an optometrist from engaging in conduct that would influence or interfere with the clinical decisions, as defined, of that optometrist, as specified. The bill would prohibit an optometrist that is using or sharing office space with a registered dispensing optician from giving or receiving, among other things, a fee or thing of material value, to or from any person in return for referral of patients or to secure patients. The bill would make a violation of these provisions punishable as a misdemeanor.

(3) Existing law permits a certificate of a registered dispensing optician to be suspended, revoked, or subjected to probation for violation of regulations or laws, as specified, or for incompetence, gross negligence, or repeated similar negligent acts by the registrant or an employee, as provided.

This bill would delete those provisions. The bill similarly would permit a certificate of a registered dispensing optician to be suspended, revoked, or subjected to probation for violation of regulations or laws, as specified, or for incompetence, gross negligence, or repeated negligent acts by the registrant or an employee, as provided, and additionally would permit the certificate to be suspended, revoked, or subjected to probation for unprofessional conduct, which includes repeated interference with the optometrist's clinical judgment or compliance with prevailing clinical standards. The bill authorizes

assessment of administrative fines for violation of specified provisions of law and requires registered dispensing opticians to cooperate with investigations into a complaint or alleged violation of law.

(4) Under existing law, it is unlawful for a registered dispensing optician to advertise the furnishing of, or to furnish, the services of a refractionist, an optometrist, or a physician and surgeon; 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; or to duplicate or change lenses without a prescription or order from a person duly licensed to issue the same.

This bill would delete those prohibitions.

(5) The Optometry Practice Act prohibits a person from having an office for the practice of optometry unless he or she is licensed to practice optometry, and requires an optometrist that has more than one office to comply with certain provisions of the act, including, among others, that an optometrist obtain a branch office license for any additional office. The act prohibits more than one branch office license from being issued to an optometrist or any 2 or more optometrists, jointly. The act requires an optometrist that had a branch office prior to January 1, 1957, and who wants to continue that branch office on or after that date to notify the board, as specified.

The bill would delete the prohibition of an optometrist or 2 or more optometrists, jointly, from having more than one branch office, and would delete the requirement that an optometrist that had a branch office prior to January 1, 1957, and who wants to continue that branch office to notify the board. The bill would prohibit a person from having any proprietary interest in an office for the practice of optometry unless he or she is licensed to practice optometry. The bill would specify that a branch office is any additional office that is not the principal place of business of an optometrist, as specified.

(6) The Optometry Practice Act prohibits an optometrist from directly or indirectly accepting employment from any person not having a valid, unrevoked license as an optometrist, except that the act authorizes an optometrist to be employed by a physician and surgeon who practices in the specialty of ophthalmology or by a health care service plan.

This bill would require an optometrist to report to the State Board of Optometry any action or circumstance that the optometrist reasonably and in good faith believes is an attempt by a registered dispensing optician, or an employee or agent thereof, to interfere with the

optometrist’s independent clinical judgment or compliance with prevailing clinical standards. The bill would require the State Board of Optometry to report these complaints to the Division of Licensing of the Medical Board of California.

(7) The bill also would require the State Board of Optometry to receive any complaint made to a state board or department related to care provided to a patient by a licensed optometrist.

(8) A violation of the optometry laws and the law governing registered dispensing opticians is a crime. Therefore, by expanding the scope of an existing crime, this 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.

~~Existing law provides for the issuance of a certificate of dispensing optician upon registration. Existing law permits a certificate to be suspended, revoked, or subjected to probation for violations of regulations or laws, as specified, or for incompetence, gross negligence, or repeated similar negligent acts by the registrant or an employee, as provided.~~

~~This bill additionally would permit a certificate to be suspended, revoked, or subjected to probation for unprofessional conduct, as defined. This bill also would permit a certificate to be suspended, revoked, or subjected to probation for actions by the registrant’s agent.~~

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

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

- 1 *SECTION 1. Section 655 of the Business and Professions Code*
- 2 *is repealed.*
- 3 ~~655. (a) No person licensed under Chapter 7 (commencing~~
- 4 ~~with Section 3000) of this division may have any membership,~~
- 5 ~~proprietary interest, coownership, landlord-tenant relationship, or~~
- 6 ~~any profit-sharing arrangement in any form, directly or indirectly,~~
- 7 ~~with any person licensed under Chapter 5.5 (commencing with~~
- 8 ~~Section 2550) of this division.~~

1 ~~(b) No person licensed under Chapter 5.5 (commencing with~~
2 ~~Section 2550) of this division may have any membership,~~
3 ~~proprietary interest, coownership, landlord-tenant relationship, or~~
4 ~~any profit sharing arrangement in any form directly or indirectly~~
5 ~~with any person licensed under Chapter 7 (commencing with~~
6 ~~Section 3000) of this division.~~

7 ~~(e) No person licensed under Chapter 7 (commencing with~~
8 ~~Section 3000) of this division may have any membership,~~
9 ~~proprietary interest, coownership, landlord-tenant relationship, or~~
10 ~~any profit-sharing arrangement in any form, directly or indirectly,~~
11 ~~either by stock ownership, interlocking directors, trusteeship,~~
12 ~~mortgage, trust deed, or otherwise with any person who is engaged~~
13 ~~in the manufacture, sale, or distribution to physicians and surgeons,~~
14 ~~optometrists, or dispensing opticians of lenses, frames, optical~~
15 ~~supplies, optometric appliances or devices or kindred products.~~

16 ~~Any violation of this section constitutes a misdemeanor as to~~
17 ~~such person licensed under Chapter 7 (commencing with Section~~
18 ~~3000) of this division and as to any and all persons, whether or~~
19 ~~not so licensed under this division, who participate with such~~
20 ~~licensed person in a violation of any provision of this section.~~

21 *SEC. 2. Section 655 is added to the Business and Professions*
22 *Code, to read:*

23 *655. (a) A person registered under Chapter 5.5 (commencing*
24 *with Section 2550), (registered dispensing optician), a person who*
25 *is engaged in the manufacture, sale or distribution to physicians*
26 *and surgeons, optometrists, or dispensing opticians of lenses,*
27 *frames, optical supplies, optometric appliances or devices or*
28 *kindred products that is renting or leasing office space, directly*
29 *or through an intermediary, to or from or otherwise using or*
30 *sharing office space with, or receiving space from, any person*
31 *licensed under Chapter 7 (commencing with Section 3000),*
32 *(optometrist), shall not engage in conduct that would influence or*
33 *interfere with the clinical decisions of that optometrist including,*
34 *but not limited to, the following:*

35 *(1) Setting quotas for the number of exams or limiting the*
36 *amount of time that an optometrist can spend with an individual*
37 *patient.*

38 *(2) Holding an optometrist responsible for the sale of, or*
39 *requiring that person to sell, the eyewear of a registered dispensing*
40 *optician.*

1 (3) *Providing compensation to an optometrist for the sale of*
2 *the eyewear of a registered dispensing optician.*

3 (b) *The optometrist's clinical decisions means the judgment*
4 *necessary to perform or control any acts as set forth in Section*
5 *3041.*

6 (c) *An optometrist that is renting or leasing space to or from*
7 *or otherwise using or sharing office space with any registered*
8 *dispensing optician shall not give or receive a fee, salary,*
9 *commission, or thing of material value, in any manner or under*
10 *any pretext, to or from any person, firm, or corporation for either*
11 *of the following:*

12 (1) *In return for the referral of optometric patients.*

13 (2) *In order to secure optometric patients.*

14 (d) *In connection with the transactions described in (a), all of*
15 *the following shall be met:*

16 (1) *Registered dispensing opticians shall ensure signs and*
17 *displays concerning the optometrist's office shall have the name*
18 *of the doctor or doctors of optometry and the nature of the*
19 *relationship between the registered dispensing optician and the*
20 *optometrist.*

21 (2) *The optometrist's office shall have a separate telephone*
22 *listing and number from that of the registered dispensing optician,*
23 *but may be accessible from a general number that the public*
24 *associates with the premises.*

25 (3) *Registered dispensing opticians shall not:*

26 (A) *Constrain the optometrist in scheduling patients, the fees*
27 *charged for optometric services, the amount of time spent with a*
28 *patient, or the number of patients to be seen in a particular time*
29 *period. The optometrist may contract to provide or arrange for*
30 *the provision of optometric services during agreed-upon hours*
31 *and days.*

32 (B) *Limit the optometrist's participation in managed care or*
33 *insurance plans.*

34 (C) *Have an interest in the optometrist's patient records, to*
35 *which the optometrist shall have 24-hour access, including physical*
36 *access or electronic access.*

37 (D) *Advertise that it performs eye examinations or other*
38 *optometric services that it is not permitted to lawfully perform*
39 *under state law.*

1 (4) *The parties shall execute a written agreement, with*
2 *commercially reasonable terms, providing that rent payments are*
3 *not affected by either party's referral of any person or sales of*
4 *product by either party, and a term of at least one year, terminable*
5 *only for cause as defined under the agreement or at the expiration*
6 *of the agreement on at least 60 days' written notice.*

7 (5) *Optometric office space inside an optical dispensary shall*
8 *be definite and distinct from space occupied by other occupants*
9 *of the premises and shall include at least one private room for the*
10 *exclusive use of providing optometric services to patients by the*
11 *optometrist.*

12 (6) *Forms used by the optometric office shall be separate from*
13 *those of the registered dispensing optician.*

14 (7) *The optometrist shall be free to practice to the full scope of*
15 *his or her license under law, and shall control the hiring, staffing,*
16 *training, and office and employment policies of the individuals*
17 *employed or engaged to assist the optometrist in the management*
18 *and administrative aspects of his or her practice and in patient*
19 *care. The optometrist may contract for the provision of technician*
20 *and administrative services. Nothing herein shall limit the right*
21 *of the optometrist and the registered dispensing optician to agree*
22 *to restrict the optometrist from offering or selling spectacles,*
23 *lenses, frames, contact lenses or other optical goods to the*
24 *optometrist's patients or to the public in the occupied space during*
25 *the term of the written agreement.*

26 (8) *The optometrist shall be responsible for and shall maintain*
27 *full and independent control of information disseminated to the*
28 *public through any advertising or other commercial medium when*
29 *that information relates to optometric services being provided by*
30 *the optometrist, whether or not that advertising is paid for or*
31 *sponsored by the optometrist. It is not a violation of this section*
32 *to include in an advertisement that is not disseminated by the*
33 *optometrist a statement advertising the availability of optometric*
34 *services, including eye examinations, by an independent doctor of*
35 *optometry located adjacent to or in proximity to a registered*
36 *dispensing optician or a statement containing substantially similar*
37 *language.*

38 (e) *A violation of this section is punishable as a misdemeanor.*

39 *SEC. 3. Section 2555 of the Business and Professions Code is*
40 *repealed.*

1 ~~2555. Certificates issued hereunder may in the discretion of~~
2 ~~the division be suspended or revoked or subjected to terms and~~
3 ~~conditions of probation for violating or attempting to violate this~~
4 ~~chapter, Chapter 5.4 (commencing with Section 2540) or any~~
5 ~~regulation adopted under this chapter or, Chapter 5.4 (commencing~~
6 ~~with Section 2540), or Section 651, 654, or 655, or for~~
7 ~~incompetence, gross negligence, or repeated similar negligent acts~~
8 ~~performed by the registrant or by an employee of the registrant.~~
9 ~~The proceedings shall be conducted in accordance with Chapter~~
10 ~~5 (commencing with Section 11500) of Part 1 of Division 3 of~~
11 ~~Title 2 of the Government Code, and the division shall have all~~
12 ~~the powers granted therein.~~

13 *SEC. 4. Section 2555 is added to the Business and Professions*
14 *Code, to read:*

15 *2555. (a) Certificates issued hereunder may in the discretion*
16 *of the division be suspended or revoked or subjected to terms and*
17 *conditions of probation for violating or attempting to violate this*
18 *chapter, Chapter 5.4 (commencing with Section 2540), any*
19 *regulation adopted under this chapter or Chapter 5.4 (commencing*
20 *with Section 2540), or Section 651, 654, or 655, or for*
21 *incompetence, gross negligence, unprofessional conduct or*
22 *repeated negligent acts performed by the registrant or by an*
23 *employee of the registrant. Unprofessional conduct includes, but*
24 *is not limited to, repeated interference with the independent clinical*
25 *judgment of an optometrist or the optometrist's compliance with*
26 *prevailing clinical standards for the practice of optometry and*
27 *when the registered dispensing optician knows or has reason to*
28 *know that the repeated interference is impairing the optometrist's*
29 *ability to provide appropriate health care to his or her patients.*
30 *Nothing herein shall limit the ability of the optometrist to file a*
31 *complaint about the registered dispensing optician's interference*
32 *directly with any state regulatory agency with authority to oversee*
33 *the practice of optometry or of registered dispensing opticians.*
34 *The proceedings shall be conducted in accordance with Chapter*
35 *5 (commencing with Section 11500) of Part 1 of Division 3 of Title*
36 *2 of the Government Code, and the division shall have all the*
37 *powers granted therein.*

38 *(b) If the division determines during a proceeding conducted*
39 *in accordance with subdivision (a) that a registered dispensing*
40 *optician has violated Section 655, the division may assess an*

1 *administrative fine of up to five thousand dollars (\$5,000) for the*
2 *first violation and up to twenty-five thousand dollars (\$25,000)*
3 *for any subsequent violation that occurs within three years after*
4 *the division's finding of a first violation. If a registered dispensing*
5 *optician's second violation of Section 655 occurs after three years*
6 *of its first violation, then the division shall assess a fine of up to*
7 *five thousand dollars (\$5,000). This section is not to be construed*
8 *to limit the division's existing authority to enforce the provisions*
9 *of subdivision (a) or any other law.*

10 *(c) Registered dispensing opticians shall comply with all*
11 *requests for information by the division within 30 days after the*
12 *request. Failure to provide to the division, as directed, lawfully*
13 *requested copies of documents relating to a complaint or alleged*
14 *violation of the law shall constitute unprofessional conduct on the*
15 *part of the registered dispensing optician, unless the registered*
16 *dispensing optician is unable to provide the documents within the*
17 *time period for good cause, including, but not limited to, inability*
18 *to access the documents in the time allowed.*

19 *(d) Failure to cooperate and participate in any division*
20 *investigation pending against a registered dispensing optician*
21 *relating to a complaint or alleged violation of the law shall also*
22 *constitute unprofessional conduct by the registered dispensing*
23 *optician. This subdivision shall not be construed to deprive a*
24 *registered dispensing optician of any privilege guaranteed by the*
25 *Constitution of the United States or any other constitutional or*
26 *statutory privileges. The registered dispensing optician's assertion*
27 *of any applicable constitutional, statutory, or other privilege,*
28 *including, but not limited to, attorney-client privilege or attorney*
29 *work product privilege, is not a violation of this section.*

30 *(e) If the registered dispensing optician disputes a determination*
31 *by the division regarding a complaint or violation of the law, the*
32 *registered dispensing optician may appeal the division's decision*
33 *to an independent administrative law judge pursuant to Chapter*
34 *5 (commencing with Section 1100) of Part 1 of Division 3 of Title*
35 *2 of the Government Code. Penalties, if any, shall be paid when*
36 *all appeals have been exhausted and the division's decision has*
37 *been upheld. In the event that the division's position has been*
38 *upheld, after all appeals have been exhausted the registered*
39 *dispensing optician shall be responsible for payment of all costs*
40 *associated with the prosecution of the matter.*

1 (f) A registered dispensing optician shall not discharge,
 2 terminate, suspend, threaten, harass, or retaliate or discriminate
 3 against an optometrist because that optometrist files a complaint
 4 as set forth in Section 3109.1 or any other complaint against a
 5 registered dispensing optician, or for lawful acts done by an
 6 optometrist in disclosing information relating to any complaint
 7 against a registered dispensing optician. When an optometrist files
 8 a complaint against a registered dispensing optician, the
 9 optometrist shall have all of the protections provided in Section
 10 1102.5 of the Labor Code.

11 SEC. 5. Section 2556 of the Business and Professions Code is
 12 repealed.

13 ~~2556. It is unlawful to do any of the following: to advertise the
 14 furnishing of, or to furnish, the services of a refractionist, an
 15 optometrist, or a physician and surgeon; to directly or indirectly
 16 employ or maintain on or near the premises used for optical
 17 dispensing, a refractionist, an optometrist, a physician and surgeon,
 18 or a practitioner of any other profession for the purpose of any
 19 examination or treatment of the eyes; or to duplicate or change
 20 lenses without a prescription or order from a person duly licensed
 21 to issue the same.~~

22 SEC. 6. Section 3077 of the Business and Professions Code is
 23 amended to read:

24 3077. ~~As~~(a) As used in this section, "office" means any office
 25 or other place for the practice of optometry.

26 ~~(a) No~~

27 (b) A person, singly or in combination with others, may have
 28 not have any proprietary interest in an office unless he or she is
 29 licensed to practice optometry under this chapter.

30 ~~(b)~~

31 (c) An optometrist, or two or more optometrists jointly, may
 32 have one office without obtaining a branch office license from the
 33 board.

34 ~~(e) On and after October 1, 1959, no~~

35 (d) An optometrist, and no or two or more optometrists jointly,
 36 may not have more than one office unless he or she or they comply
 37 with the provisions of this chapter as to an additional office. The
 38 additional office, for the purposes of this chapter, additional offices.
 39 An additional office that is not the optometrist's principal place

1 *of practice, as described by Section 3070, constitutes a branch*
2 *office: office for purposes of this chapter.*

3 ~~(d) Any optometrist who has, or any two or more optometrists,~~
4 ~~jointly, who have, a branch office prior to January 1, 1957, and~~
5 ~~who desire to continue the branch office on or after that date shall~~
6 ~~notify the board in writing of that desire in a manner prescribed~~
7 ~~by the board.~~

8 ~~(e) On and after January 1, 1957, any optometrist, or any two~~
9 ~~or more optometrists, jointly, who desire~~ *Any optometrist who*
10 *desires to open a branch office that is not his or her principal place*
11 *of business shall notify the board in writing in a manner prescribed*
12 *by the board.*

13 ~~(f) On and after January 1, 1957, no~~ *A branch office may not*
14 *be opened or operated without a branch office license. Branch*
15 *office licenses shall be valid for the calendar year in or for which*
16 *they are issued and shall be renewable on January 1 of each year*
17 *thereafter. Branch office licenses shall be issued or renewed only*
18 *upon the payment of the fee therefor prescribed by this chapter.*

19 ~~On or after October 1, 1959, no more than one branch office~~
20 ~~license shall be issued to any optometrist or to any two or more~~
21 ~~optometrists, jointly.~~

22 (g) Any failure to comply with the provisions of this chapter
23 relating to branch offices or branch office licenses as to any branch
24 office shall work the suspension of the optometrist license of each
25 optometrist who, individually or with others, has a branch office.
26 An optometrist license so suspended shall not be restored except
27 upon compliance with those provisions and the payment of the fee
28 prescribed by this chapter for restoration of a license after
29 suspension for failure to comply with the provisions of this chapter
30 relating to branch offices.

31 (h) The holder or holders of a branch office license shall pay
32 the ~~annual~~ *biennial* renewal fee therefor in the amount required
33 by this chapter between the first day of January and the first day
34 of February of each ~~year~~ *renewal period*. The failure to pay the
35 fee in advance on or before February 1 of each year during the
36 time it is in force shall ipso facto work the suspension of the branch
37 office license. The license shall not be restored except upon written
38 application and the payment of the penalty prescribed by this
39 chapter, and, in addition, all delinquent branch office fees.

1 (i) ~~Nothing in this chapter shall limit or authorize the board to~~
2 ~~limit the number of branch offices that are in operation on October~~
3 ~~1, 1959, and that conform to this chapter, nor prevent an~~
4 ~~optometrist from acquiring any branch office or offices of his or~~
5 ~~her parent. The sale after October 1, 1959, of any branch office~~
6 ~~shall terminate the privilege of operating the branch office, and~~
7 ~~no new branch office license shall be issued in place of the license~~
8 ~~issued for the branch office, unless the branch office is the only~~
9 ~~one operated by the optometrist or by two or more optometrists~~
10 ~~jointly.~~

11 ~~Nothing in this chapter shall prevent an optometrist from owning,~~
12 ~~maintaining, or operating more than one branch office if he or she~~
13 ~~is in personal attendance at each of his or her offices 50 percent~~
14 ~~of the time during which the office is open for the practice of~~
15 ~~optometry.~~

16 (j)

17 (i) The board shall have the power to adopt, amend, and repeal
18 rules and regulations to carry out the provisions of this section.

19 (k) ~~Notwithstanding any other provision of this section, neither~~
20 ~~an optometrist nor an individual practice association shall be~~
21 ~~deemed to have an additional office solely by reason of the~~
22 ~~optometrist's participation in an individual practice association or~~
23 ~~the individual practice association's creation or operation. As used~~
24 ~~in this subdivision, the term "individual practice association" means~~
25 ~~an entity that meets all of the following requirements:~~

26 (1) ~~Complies with the definition of an optometric corporation~~
27 ~~in Section 3160.~~

28 (2) ~~Operates primarily for the purpose of securing contracts~~
29 ~~with health care service plans or other third-party payers that make~~
30 ~~available eye/vision services to enrollees or subscribers through a~~
31 ~~panel of optometrists.~~

32 (3) ~~Contracts with optometrists to serve on the panel of~~
33 ~~optometrists, but does not obtain an ownership interest in, or~~
34 ~~otherwise exercise control over, the respective optometric practices~~
35 ~~of those optometrists on the panel.~~

36 ~~Nothing in this subdivision shall be construed to exempt an~~
37 ~~optometrist who is a member of an individual practice association~~
38 ~~and who practices optometry in more than one physical location,~~
39 ~~from the requirement of obtaining a branch office license for each~~
40 ~~of those locations, as required by this section. However, an~~

1 ~~optometrist shall not be required to obtain a branch office license~~
2 ~~solely as a result of his or her participation in an individual practice~~
3 ~~association in which the members of the individual practice~~
4 ~~association practice optometry in a number of different locations,~~
5 ~~and each optometrist is listed as a member of that individual~~
6 ~~practice association.~~

7 *SEC. 7. Section 3090.1 is added to the Business and Professions*
8 *Code, to read:*

9 *3090.1. The State Board of Optometry shall receive any*
10 *complaint made to a state board or department related to care*
11 *provided to a patient by a licensed optometrist under Chapter 7*
12 *(commencing with Section 3000).*

13 *SEC. 8. Section 3109.1 is added to the Business and Professions*
14 *Code, to read:*

15 *3109.1. (a) An optometrist shall report to the board any action*
16 *or circumstance that the optometrist reasonably and in good faith*
17 *believes constitutes a continued and unresolved attempt to interfere*
18 *with his or her independent clinical judgment or compliance with*
19 *prevailing clinical standards for the practice of optometry by a*
20 *registered dispensing optician or any employee or agent of the*
21 *registered dispensing optician that violates Section 655.*

22 *(b) The board shall report the complaint to the Division of*
23 *Licensing of the Medical Board of California, and the division*
24 *shall investigate the complaint pursuant to Section 2555.*

25 *(c) A registered dispensing optician shall not discharge,*
26 *terminate, suspend, threaten, harass, or in any other manner*
27 *retaliate or discriminate against an optometrist that files a good*
28 *faith complaint pursuant to this section or any other law, or for*
29 *lawful acts done by an optometrist in disclosing information*
30 *relating to any complaint against a registered dispensing optician.*
31 *When an optometrist files a good faith complaint against a*
32 *registered dispensing optician, the optometrist shall have all of*
33 *the protections provided in Section 1102.5 of the Labor Code.*

34 *SEC. 9. No reimbursement is required by this act pursuant to*
35 *Section 6 of Article XIII B of the California Constitution because*
36 *the only costs that may be incurred by a local agency or school*
37 *district will be incurred because this act creates a new crime or*
38 *infraction, eliminates a crime or infraction, or changes the penalty*
39 *for a crime or infraction, within the meaning of Section 17556 of*
40 *the Government Code, or changes the definition of a crime within*

1 *the meaning of Section 6 of Article XIII B of the California*
2 *Constitution.*

3 ~~SECTION 1. Section 2555 of the Business and Professions~~
4 ~~Code is amended to read:~~

5 ~~2555. Certificates issued hereunder may in the discretion of~~
6 ~~the division be suspended or revoked or subjected to terms and~~
7 ~~conditions of probation for violating or attempting to violate this~~
8 ~~chapter, Chapter 5.4 (commencing with Section 2540) or any~~
9 ~~regulation adopted under this chapter or, Chapter 5.4 (commencing~~
10 ~~with Section 2540), or Section 651, 654, or 655, or for~~
11 ~~incompetence, gross negligence, unprofessional conduct, or~~
12 ~~repeated negligent acts performed by the registrant or by an~~
13 ~~employee or agent of the registrant. Unprofessional conduct~~
14 ~~includes, but is not limited to, repeated interference with the~~
15 ~~independent clinical judgment of an optometrist or with compliance~~
16 ~~by an optometrist with prevailing clinical standards for the practice~~
17 ~~of optometry. The proceedings shall be conducted in accordance~~
18 ~~with Chapter 5 (commencing with Section 11500) of Part 1 of~~
19 ~~Division 3 of Title 2 of the Government Code, and the division~~
20 ~~shall have all the powers granted therein.~~