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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 2. HEALING ARTS [500 - 4999.129] (*Division 2 enacted by Stats. 1937, Ch. 399.*)

CHAPTER 7. Optometry [3000 - 3167] (*Chapter 7 added by Stats. 1937, Ch. 423.*)

ARTICLE 4. Registration [3070 - 3078] (*Article 4 added by Stats. 1937, Ch. 423.*)

3070. (a) Before engaging in the practice of optometry, each licensed optometrist shall notify the board in writing of the address or addresses where he or she is to engage in the practice of optometry and, also, of any changes in his or her place of practice. After providing the address or addresses and place of practice information to the board, a licensed optometrist shall obtain a statement of licensure from the board to be placed in all practice locations other than an optometrist's principal place of practice. The practice of optometry is the performing or the controlling of any of the acts set forth in Section 3041.

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

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

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

(Amended by Stats. 2018, Ch. 334, Sec. 1. (SB 1386) Effective January 1, 2019.)

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

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

(2) "Residential care facility" means a residential facility, as defined in paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code, licensed by the State Department of Social Services, including, but not limited to, the following:

(A) Adult residential facilities.

(B) Adult residential facilities for persons with special health care needs.

(C) Residential care facilities for the chronically ill.

(D) Residential care facilities for the elderly.

(E) Continuing care retirement communities.

(F) Social rehabilitation facilities.

(3) "Home residence" means the primary residence of an individual who is restricted by a disabling physical or mental condition. "Home residence" does not include a health facility, as defined in Section 1250 of the Health and Safety Code, or a community care facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, but does include an individual condominium unit, apartment, single-family home, cooperative unit, mobilehome, or trailer, if it is used as a residence.

(b) (1) An optometrist who is certified as a therapeutic pharmaceutical agent pursuant to Section 3041.3 may, in the form and manner prescribed by the board, submit an application to the board for a home residence permit, and pay all applicable fees prescribed in Section 3152. The board shall, upon application and payment of the fee prescribed in Section 3152, issue a home residence permit to an optometrist certified as a therapeutic pharmaceutical agent pursuant to Section 3041.3. A home residence permit authorizes the holder to engage in the practice of optometry at a home residence as specified in this section.

(2) A home residence permit shall expire on the same date the licensee's optometry license expires. A home residence optometrist may renew the permit by submitting an application, in the form and manner prescribed by the board, to the board for renewal, and paying any applicable fees prescribed in Section 3152.

(3) A person engaging in the temporary practice of optometry, as defined in subdivision (b) of Section 3070, is not required to obtain a home residence permit in order to engage in the temporary practice of optometry at a home residence.

(c) An optometrist may engage in the practice of optometry at any health facility or residential care facility, and in a home residence, if all of the following requirements are satisfied:

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

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

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

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

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

(E) Is not located in or connected with a residential dwelling.

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

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

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

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

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

(i) Name.

(ii) Optometrist license number.

(iii) The place of practice and the primary business office.

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

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

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

(4) The optometrist provides each patient and, if applicable, the patient's caregiver, a consumer notice prescribed by the board that includes the following:

(A) The name, license number, primary telephone number, and primary business address of the optometrist.

(B) Information for filing a complaint with the board.

(d) An optometrist who satisfies all of the requirements in this section for the practice of optometry at a health facility, residential care facility, or home residence shall not be required to comply with Section 3070 with regard to providing notification to the board of each health facility, residential care facility, or home residence at which the optometrist practices.

(e) Before engaging in the practice of optometry at a home residence, an optometrist shall provide each patient and, if applicable, the patient's caregiver, both of the following:

(1) A consumer notice prescribed by the board that includes any information the board deems appropriate to safeguard the public from substandard optometric care, fraud, and other violations of the act. The patient, or, if applicable, the patient's caregiver, shall sign the consumer notice.

(2) An authorization to release the patient's medical information related to the optometrist's provision of optometry services to the board. The authorization shall disclose that the patient's authorization to release medical information to the board is voluntary and that the medical information shall be used by the board only to investigate complaints and to conduct the board's enforcement duties under the act.

(f) An optometrist subject to subdivision (e) shall maintain in the patient's file a copy of the signed consumer notice described in paragraph (1) of, and, if signed, the signed authorization described in paragraph (2) of, subdivision (e).

(g) The board may adopt regulations to conduct quality assurance reviews for optometrists engaging in the practice of optometry at a home residence.

(Amended by Stats. 2019, Ch. 425, Sec. 1. (AB 458) Effective January 1, 2020.)

3070.2. (a) As used in this section, "mobile optometric office" means a trailer, van, or other means of transportation in which the practice of optometry, as defined in Section 3041, is performed and which is not affiliated with an approved optometry school in California.

(b) This section shall not apply to any of the following:

(1) Optometric services provided remotely by an approved optometry school in California that meets the requirements of Section 1507 of Title 16 of the California Code of Regulations.

(2) A licensee engaged in the practice of optometry at a facility defined in paragraph (1), (2), or (3) of subdivision (a) of Section 3070.1.

(3) A federally qualified health center, as defined in Section 1396d(l)(2)(B) of Title 42 of the United States Code.

(4) A nonprofit or charitable organization exempt from taxation pursuant to Section 501(c)(3), 501(c)(4), or 501(c)(6) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3), 501(c)(4), or 501(c)(6)), which utilizes the volunteer services of licensees engaging in the temporary practice of optometry pursuant to subdivision (b) of Section 3070.

(5) A free clinic, as defined in subparagraph (B) of paragraph (1) of subdivision (a) of Section 1204 of the Health and Safety Code, which is operated by a clinic corporation, as defined in paragraph (3) of subdivision (b) of Section 1200 of the Health and Safety Code.

(6) A specialized vision health care service plan, as defined in subdivision (f) of Section 1345 of the Health and Safety Code, formed and existing pursuant to the provisions of the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code).

(c) The ownership and operation of a mobile optometric office shall be limited to a nonprofit or charitable organization that is exempt from taxation pursuant to Section 501(c)(3) or 501(c)(4) of the United States Internal Revenue Code that provides optometric services to patients regardless of the patient's ability to pay.

(1) The owner and operator of a mobile optometric office shall register with the board. The owner and operator of a mobile optometric office and the optometrist providing services shall not accept payment for services other than those provided through the Medi-Cal program or through any of the state's programs under the Children's Health Insurance Program (CHIP) under Title XIX (42 U.S.C. Sec. 1396 et seq.), or Title XXI (42 U.S.C. Sec. 1397aa et seq.), of the Social Security Act.

(2) The medical operations of the mobile optometric office shall be directed by a licensed optometrist and in every phase shall be under the exclusive control of the licensed optometrist, including the selection and supervision of optometric staff, the scheduling of patients, the amount of time the optometrist or optician spends with patients, the fees charged for optometric products and services, the examination procedures, the treatment provided to patients, and the followup care pursuant to this section.

(3) The owner and operator of a mobile optometric office shall not operate more than 12 mobile optometric offices within the first renewal period of two years, but may operate more than 12 offices after the first renewal period is complete.

(d) An owner and operator who has obtained approval from the board pursuant to paragraph (1) of subdivision (c) and wishes to operate a mobile optometric office shall apply for a permit from the board before beginning operation of each mobile optometric office. The application shall be made on a board-prescribed form that requests any information the board deems appropriate to register a mobile optometric office pursuant to this section. The form shall be accompanied by a nonrefundable fee of four hundred seventy-two dollars (\$472). The board may increase the fee, as necessary to cover the reasonable regulatory costs of administration, to not more than six hundred dollars (\$600).

(1) Upon approval of the permit, the board shall issue a unique identifying number for each mobile optometric office that shall be used in all reporting by the owner and operator to the board.

(2) Upon approval, the permit shall be valid until the next renewal date of the owner and operator registration.

(3) Mobile optometric office permits are specific to the vehicle registered with the board. Permits are not transferrable.

(4) An owner and operator may apply for renewal of the mobile optometric office permit by attesting to compliance with the requirements of this section and payment of the biennial renewal fee prescribed by the board.

(e) The owner and operator of the mobile optometric office registering with the board pursuant to subdivision (c) shall provide the following information to the board:

(1) The description of services to be rendered within the mobile optometric office.

(2) The names and optometry license numbers of optometrists, registration numbers of opticians, and names of any other persons who are providing patient care, as described in Section 2544.

(3) The dates of operation and cities or counties served.

(4) A description of how followup care will be provided.

(5) A catalog of complaints, if any.

(6) Articles of incorporation or acknowledgment of intent to operate and employer identification number demonstrating the owner and operator is a nonprofit or charitable organization that is exempt from taxation pursuant to Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

(7) Any other information the board deems appropriate to safeguard the public from substandard optometric care, fraud, or other violation of this chapter.

(f) (1) Except as provided in paragraph (2), the owner and operator of the mobile optometric office, on a form prescribed by the board, shall file a quarterly report containing the following information:

(A) A list of all visits made by each mobile optometric office, including dates of operation, address, care provided, and names and license numbers of optometrists and opticians who provided care.

(B) A summary of all complaints received by each mobile optometric office, the disposition of those complaints, and referral information.

(C) An updated and current list of licensed optometrists, registered opticians, and any other persons who have provided care within each mobile optometric office since the last reporting period.

(D) An updated and current list of licensed optometrists who are available for followup care as a result of a complaint on a volunteer basis or who accept Medi-Cal payments.

(E) Any other information the board deems appropriate to safeguard the public from substandard optometric care, fraud, or other violation of this chapter.

(2) During the first renewal period of two years, the owner and operator of the mobile optometric office may file the report required by paragraph (1) in a single, annual report on or before January 1 of each calendar year. The board shall not take an enforcement

action against an owner or operator of a mobile optometric office for submitting the quarterly reports as a single, annual report pursuant to this paragraph.

(g) The owner and operator of the mobile optometric office shall notify the board of any change to the information provided to the board pursuant to subdivision (e) within 14 days.

(h) (1) The owner and operator of the mobile optometric office shall provide each patient, and, if applicable, the patient's caregiver or guardian, a consumer notice prescribed by the board that includes the following:

(A) The name, license number, and contact information for the optometrist.

(B) Optometrists providing services at a mobile optometric office are regulated by the board and the contact information for filing a complaint with the board.

(C) Information on how to obtain a copy of the patient's medical information.

(D) Information on followup care available for the patient, including a list of available Medi-Cal or volunteer optometrists. This list shall be updated every six months and is subject to the inspection by the board.

(E) Any other information the board deems appropriate to safeguard the public from substandard optometric care, fraud, or other violation of this chapter.

(2) The optometrist shall maintain a copy of the consumer notice described in paragraph (1) in the patient's medical record.

(3) Upon request by the patient's caregiver or guardian, a copy of the prescription made for the patient shall be provided.

(i) Any person who is employed by the owner and operator of the mobile optometric office to drive or transport the vehicle shall possess a valid driver's license.

(j) By January 1, 2026, the board shall adopt regulations establishing a registry for the owners and operators of mobile optometric offices and shall set a registration fee at an amount not to exceed the reasonable regulatory costs of administration.

(k) The board may adopt regulations to conduct quality assurance reviews for the owner and operator of a mobile optometric office and optometrists engaging in the practice of optometry at a mobile optometric office.

(l) The board shall not bring an enforcement action against an owner and operator of a mobile optometric office based solely on its affiliation status with an approved optometry school in California for remotely providing optometric service before January 1, 2026, or before the board adopts final regulations pursuant to subdivision (j), whichever is earlier.

(m) The owner and operator of a mobile optometric office shall maintain records in the following manner, which shall be made available to the board upon request for inspection:

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

(2) The owner and operator of a mobile optometric office complies with all federal and state laws and regulations regarding the maintenance and protection of medical records, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(3) Pursuant to Section 3007, the owner and operator of the mobile optometric office keeps all necessary records for a minimum of seven years from the date of service in order to disclose fully the extent of services furnished to a patient. Any information included on a printed copy of an original document to a patient shall be certified by the owner and operator of the mobile optometric office as being true, accurate, and complete.

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

(A) Name.

(B) Optometrist license number.

(C) The place of practice and the primary business office.

(D) Description of the goods and services for which the patient is charged and the amount charged. If no charge was made to the patient, a description of the goods and services provided.

(5) The owners and operators of the mobile optometric offices shall maintain accurate records of the mobile optometric offices, including vehicle registration numbers and the year, make, and model of each trailer or van.

(n) Any licensed optometrist who provides patient care in conjunction with a mobile optometric office shall obtain a statement of licensure pursuant to subdivision (a) of Section 3070 with the mobile optometric office's address as registered with the board. If the licensee is not practicing optometry at a location other than with the owner and operator of the mobile optometric office, then the licensee shall list as their primary address of record the owner and operator of the mobile optometric office's address as registered with the board.

(o) All examinations performed at the mobile optometric office shall be performed by a licensed optometrist who is certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3.

(p) This section does not apply to optometry services defined in Section 3070.1.

(q) This section shall remain in effect only until July 1, 2035, and as of that date is repealed.

(Amended by Stats. 2024, Ch. 391, Sec. 1. (AB 2327) Effective January 1, 2025. Repealed as of July 1, 2035, by its own provisions.)

3075. An optometrist shall post in each location where he or she practices optometry, in an area that is likely to be seen by all patients who use the office, his or her current license or other evidence of current license status issued by the board. The board may charge a fee as specified in Section 3152 for each issuance of evidence of current licensure.

(Amended by Stats. 2007, Ch. 276, Sec. 3. Effective January 1, 2008.)

3076. A licensed optometrist shall deliver to each patient that makes a payment to the practice, excluding insurance copayments and deductibles, a receipt that contains all of the following information:

(a) His or her name.

(b) The number of his or her optometrist license.

(c) His or her place of practice.

(d) A description of the goods and services for which the patient is charged and the amount charged.

(Amended by Stats. 2005, Ch. 393, Sec. 2. Effective January 1, 2006.)

3077. As used in this section, "office" means any office or other place for the practice of optometry, including but not limited to vans, trailers, or other mobile equipment.

(a) No person, singly or in combination with others, may have an office unless that person is licensed to practice optometry under this chapter or the registered owner and operator of a nonprofit mobile optometric office as set out in this chapter.

(b) No optometrist, and no two or more optometrists jointly, may have more than 11 offices.

(c) Any failure to comply with the provisions of this section shall result in the suspension of the optometrist license of each optometrist who, individually or with others, has an office. An optometrist license so suspended shall not be restored except upon compliance with those provisions and the payment of the fee prescribed by this chapter for restoration of a license after suspension for failure to comply with this section.

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

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

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

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

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

(f) For purposes of Section 3070.2, "office" shall include a van, trailer, or mobile equipment owned and operated by a mobile optometric office.

(Amended by Stats. 2020, Ch. 121, Sec. 10. (AB 896) Effective September 24, 2020.)

3078. (a) It is unlawful to practice optometry under a false or assumed name, or to use a false or assumed name in connection with the practice of optometry, or to make use of any false or assumed name in connection with the name of a person licensed pursuant to this chapter. However, the board may issue written permits authorizing an individual optometrist or an optometric group or

optometric corporation to use a name specified in the permit in connection with its practice if, and only if, the board finds to its satisfaction all of the following:

- (1) The place or establishment, or the portion thereof, in which the applicant or applicants practice, is owned or leased by the applicant or applicants, and the practice conducted at that place or establishment, or portion thereof, is wholly owned and entirely controlled by the applicant or applicants. However, if the applicant or applicants are practicing optometry in a community clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code, this subdivision shall not apply.
- (2) The name under which the applicant or applicants propose to operate is in the judgment of the board not deceptive or inimical to enabling a rational choice for the consumer public and contains at least one of the following designations: "optometry" or "optometric." However, if the applicant or applicants are practicing optometry in a community clinic, as defined in subdivision (a) of Section 1204 of the Health and Safety Code, this subdivision shall not apply. In no case shall the name under which the applicant or applicants propose to operate contain the name or names of any of the optometrists practicing in the community clinic.
- (3) The names of all optometrists practicing at the location designated in the application are displayed in a conspicuous place for the public to see, not only at the location, but also in any advertising permitted by law.
- (4) No charges that could result in revocation or suspension of an optometrist's license to practice optometry are pending against any optometrist practicing at the location.

(b) Permits issued under this section by the board shall expire and become invalid unless renewed at the times and in the manner provided in Article 7 (commencing with Section 3145) for the renewal of licenses issued under this chapter.

(c) A permit issued under this section may be revoked or suspended at any time that the board finds that any one of the requirements for original issuance of a permit, other than under paragraph (4) of subdivision (a), is no longer being fulfilled by the individual optometrist, optometric corporation, or optometric group to whom the permit was issued. Proceedings for revocation or suspension shall be governed by the Administrative Procedure Act.

(d) If the board revokes or suspends the license to practice optometry of an individual optometrist or any member of a corporation or group to whom a permit has been issued under this section, the revocation or suspension shall also constitute revocation or suspension, as the case may be, of the permit.

(Amended by Stats. 2007, Ch. 276, Sec. 4. Effective January 1, 2008.)