



Home	Bill Information	California Law	Publications	Other Resources	My Subscriptions	My Favorites
------	------------------	----------------	--------------	-----------------	------------------	--------------

AB-2327 Optometry: mobile optometric offices. (2023-2024)

SHARE THIS:  

Date Published: 09/23/2024 09:00 PM

Assembly Bill No. 2327

CHAPTER 391

An act to amend Section 3070.2 of the Business and Professions Code, relating to healing arts.

[Approved by Governor September 22, 2024. Filed with Secretary of State September 22, 2024.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2327, Wendy Carrillo. Optometry: mobile optometric offices.

Existing law, the Optometry Practice Act, establishes the State Board of Optometry within the Department of Consumer Affairs and sets forth the powers and duties of the board relating to the licensure and regulation of the practice of optometry. Existing law regulates the ownership and operation of mobile optometric offices, as defined, including, among other things, requiring the owner and operator of a mobile optometric office to file a quarterly report containing specified information. Existing law requires the board, by January 1, 2023, to adopt regulations establishing a registry for the owners and operators of mobile optometric offices, as specified. Existing law prohibits the board, before January 1, 2023, from bringing 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. Existing law makes these and other provisions related to the permitting and regulation of mobile optometric offices effective only until July 1, 2025, and repeals them as of that date.

This bill would authorize the owner and operator of a mobile optometric office to instead file the above-described quarterly reports as a single, annual report during the first renewal period of 2 years, as specified. The bill would also extend the deadline for the board to adopt the above-described regulations to January 1, 2026. The bill would prohibit the board from bringing the above-described enforcement action before January 1, 2026, or before the board adopts those regulations, whichever is earlier. The bill would extend the repeal date of the provisions related to the permitting and regulation of mobile optometric clinics to July 1, 2035.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 3070.2 of the Business and Professions Code is amended to read:

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.