

ASSEMBLY BILL

No. 2256

Introduced by Committee on Business and Professions (Negrete McLeod (Chair), Shirley Horton (Vice Chair), Bass, Frommer, Koretz, Maze, Nation, Tran, Vargas, and Yee)

February 22, 2006

An act to amend Section 3077 of, to repeal Sections 3161 and 3162 of, and to repeal and add Section 3160 of, the Business and Professions Code, and to amend Section 13401 of the Corporations Code, relating to optometric corporations.

LEGISLATIVE COUNSEL'S DIGEST

AB 2256, as introduced, Committee on Business and Professions. Optometric corporations: registration and reporting.

Existing law, the Optometry Practice Act, provides for the licensure and regulation of optometrists by the State Board of Optometry. Under the act, an optometric corporation is required to obtain a certificate of registration from the board and file specified reports with it.

This bill would delete the provisions requiring an optometric corporation to obtain this certificate from the board and file these reports with it.

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

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

- 1 SECTION 1. Section 3077 of the Business and Professions
- 2 Code is amended to read:

1 3077. As used in this section “office” means any office or
2 other place for the practice of optometry.

3 (a) No person, singly or in combination with others, may have
4 an office unless he or she is registered to practice optometry
5 under this chapter.

6 (b) An optometrist, or two or more optometrists jointly, may
7 have one office without obtaining a further license from the
8 board.

9 (c) On and after October 1, 1959, no optometrist, and no two
10 or more optometrists jointly, may have more than one office
11 unless he, or she, or they comply with the provisions of this
12 chapter as to an additional office. ~~Such~~ *The* additional office, for
13 the purposes of this chapter, constitutes a branch office.

14 (d) Any optometrist who has, or any two or more optometrists,
15 jointly, who have, a branch office prior to January 1, 1957, and
16 who desire to continue ~~such~~ *the* branch office on or after that date
17 shall notify the board in writing of ~~such~~ *that* desire in a manner
18 prescribed by the board.

19 (e) On and after January 1, 1957, any optometrist, or any two
20 or more optometrists, jointly, who desire to open a branch office
21 shall notify the board in writing in a manner prescribed by the
22 board.

23 (f) On and after January 1, 1957, no branch office may be
24 opened or operated without a branch office license. Branch office
25 licenses shall be valid for the calendar year in or for which they
26 are issued and shall be renewable on January 1st of each year
27 thereafter. Branch office licenses shall be issued or renewed only
28 upon the payment of the fee therefor prescribed by this chapter.

29 On or after October 1, 1959, no more than one branch office
30 license shall be issued to any optometrist or to any two or more
31 optometrists, jointly.

32 (g) Any failure to comply with the provisions of this chapter
33 relating to branch offices or branch office licenses as to any
34 branch office shall work the suspension of the certificate of
35 registration of each optometrist who, individually or with others,
36 has ~~such~~ *a* branch office. A certificate of registration so
37 suspended shall not be restored except upon compliance with
38 ~~such~~ *those* provisions and the payment of the fee prescribed by
39 this chapter for restoration of a certificate of registration after

1 suspension for failure to comply with the provisions of this
2 chapter relating to branch offices.

3 (h) The holder or holders of a branch office license shall pay
4 the annual renewal fee therefor in the amount required by this
5 chapter between the first day of January and the first day of
6 February of each year. The failure to pay ~~such the~~ fee in advance
7 on or before February 1st of each year during the time it is in
8 force shall ipso facto work the suspension of ~~such the~~ branch
9 office license. ~~Such~~ The license shall not be restored except upon
10 written application and the payment of the penalty prescribed by
11 this chapter, and, in addition, all delinquent branch office fees.

12 (i) Nothing in this chapter shall limit or authorize the board to
13 limit the number of branch offices ~~which that~~ are in operation on
14 October 1, 1959 and ~~which that~~ conform to this chapter, nor
15 prevent an optometrist from acquiring any branch office or
16 offices of his or her parent. The sale after October 1, 1959 of any
17 branch office shall terminate the privilege of operating ~~such the~~
18 branch office, and no new branch office license shall be issued in
19 place of the license issued for ~~such the~~ branch office, unless the
20 branch office is the only one operated by the optometrist or two
21 or more optometrists jointly.

22 Nothing in this chapter shall prevent an optometrist from
23 owning, maintaining, or operating more than one branch office if
24 he or she is in personal attendance at each of his offices fifty
25 percent (50%) of the time during which ~~such the~~ office is open
26 for the practice of optometry.

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

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

37 (1) ~~Is registered with the State Board of Optometry~~
38 ~~as~~ *Complies with the definition of* an optometric corporation in
39 ~~accordance with~~ Section 3160.

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

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

9 Nothing in this subdivision shall be construed to exempt an
10 optometrist who is a member of an individual practice
11 association and who practices optometry in more than one
12 physical location, from the requirement of obtaining a branch
13 office license for each of those locations, as required by this
14 section. However, an optometrist shall not be required to obtain a
15 branch office license solely as a result of his or her participation
16 in an individual practice association in which the members of the
17 individual practice association practice optometry in a number of
18 different locations, and each optometrist is listed as a member of
19 that individual practice association.

20 SEC. 2. Section 3160 of the Business and Professions Code is
21 repealed.

22 ~~3160. An optometric corporation is a corporation which is
23 registered with the State Board of Optometry and has a currently
24 effective certificate of registration from the board pursuant to the
25 Moscone-Knox Professional Corporation Act, as contained in
26 Part 4 (commencing with Section 13400) of Division 3 of Title 1
27 of the Corporations Code, and this article. Subject to all
28 applicable statutes, rules and regulations, such optometric
29 corporation is entitled to practice optometry. With respect to an
30 optometric corporation, the governmental agency referred to in
31 the Moscone-Knox Professional Corporation Act is the State
32 Board of Optometry.~~

33 SEC. 3. Section 3160 is added to the Business and
34 Professions Code, to read:

35 3160. An optometric corporation is a corporation that is
36 authorized to render professional services, as described in
37 Sections 13401 and 13401.5 of the Corporations Code, if that
38 corporation and its shareholders, officers, directors, and
39 employees rendering professional services who are physicians
40 and surgeons, psychologists, registered nurses, optometrists, or

1 podiatrists are in compliance with the Moscone-Knox
2 Professional Corporation Act as contained in Part 4
3 (commencing with Section 13400) of Division 3 of Title 1 of the
4 Corporations Code, the provisions of this article, and all other
5 statutes and regulations now or hereafter enacted or adopted
6 pertaining to the corporation and the conduct of its affairs. With
7 respect to an optometric corporation, the governmental agency
8 referred to in the Moscone-Knox Professional Corporation Act is
9 the State Board of Optometry.

10 SEC. 4. Section 3161 of the Business and Professions Code is
11 repealed.

12 ~~3161.—An applicant for registration as an optometric~~
13 ~~corporation shall supply to the board all necessary and pertinent~~
14 ~~documents and information requested by the board concerning~~
15 ~~the applicant's plan of operation. The board may provide forms of~~
16 ~~application. If the board finds that the corporation is duly~~
17 ~~organized and existing pursuant to the general corporation law,~~
18 ~~that, except as provided in Section 13403 of the Corporations~~
19 ~~Code, each officer, director, shareholder, and each employee who~~
20 ~~will render professional services is a licensed person as defined~~
21 ~~in the Moscone-Knox Professional Corporation Act, and that~~
22 ~~from the application it appears that the affairs of the corporation~~
23 ~~will be conducted in compliance with law and the rules and~~
24 ~~regulations of the board, the board shall upon payment of the~~
25 ~~registration fee in such amount as it may determine issue a~~
26 ~~certificate of registration. The application shall be signed and~~
27 ~~verified by an officer of the corporation.~~

28 SEC. 5. Section 3162 of the Business and Professions Code is
29 repealed.

30 ~~3162.—Each optometric corporation shall file with the board at~~
31 ~~such times as the board may require a report containing such~~
32 ~~information pertaining to qualification and compliance with the~~
33 ~~statutes, rules and regulations of the board as the board may~~
34 ~~determine. The fee for filing such a report shall be fixed by the~~
35 ~~board. All reports shall be signed and verified by an officer of the~~
36 ~~corporation.~~

37 SEC. 6. Section 13401 of the Corporations Code is amended
38 to read:

39 13401. As used in this part:

1 (a) “Professional services” means any type of professional
2 services that may be lawfully rendered only pursuant to a license,
3 certification, or registration authorized by the Business and
4 Professions Code, the Chiropractic Act, or the Osteopathic Act.

5 (b) “Professional corporation” means a corporation organized
6 under the General Corporation Law or pursuant to subdivision
7 (b) of Section 13406 that is engaged in rendering professional
8 services in a single profession, except as otherwise authorized in
9 Section 13401.5, pursuant to a certificate of registration issued by
10 the governmental agency regulating the profession as herein
11 provided and that in its practice or business designates itself as a
12 professional or other corporation as may be required by statute.
13 However, any professional corporation or foreign professional
14 corporation rendering professional services by persons duly
15 licensed by the Medical Board of California or any examining
16 committee under the jurisdiction of the board, the Osteopathic
17 Medical Board of California, the Dental Board of California, the
18 California State Board of Pharmacy, the Veterinary Medical
19 Board, the California Architects Board, the Court Reporters
20 Board of California, the Board of Behavioral Sciences, the
21 Speech-Language Pathology and Audiology Board, ~~or~~ the Board
22 of Registered Nursing, *or the State Board of Optometry* shall not
23 be required to obtain a certificate of registration in order to
24 render those professional services.

25 (c) “Foreign professional corporation” means a corporation
26 organized under the laws of a state of the United States other
27 than this state that is engaged in a profession of a type for which
28 there is authorization in the Business and Professions Code for
29 the performance of professional services by a foreign
30 professional corporation.

31 (d) “Licensed person” means any natural person who is duly
32 licensed under the provisions of the Business and Professions
33 Code, the Chiropractic Act, or the Osteopathic Act to render the
34 same professional services as are or will be rendered by the
35 professional corporation or foreign professional corporation of
36 which he or she is or intends to become, an officer, director,
37 shareholder, or employee.

38 (e) “Disqualified person” means a licensed person who for any
39 reason becomes legally disqualified (temporarily or permanently)
40 to render the professional services that the particular professional

1 corporation or foreign professional corporation of which he or
2 she is an officer, director, shareholder, or employee is or was
3 rendering.

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