

**Introduced by Senator Bates
(Coauthors: Senators Berryhill and Nguyen)**

February 24, 2015

An act to add Section 3070.2 to the Business and Professions Code, relating to optometry.

LEGISLATIVE COUNSEL'S DIGEST

SB 349, as introduced, Bates. Optometry: mobile optometric facilities.

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. The act requires each licensed optometrist, before engaging in the practice of optometry, to notify the board in writing of the address or addresses where he or she is to engage in the practice of optometry and of any changes in his or her place of practice.

This bill would authorize an optometrist to engage in the practice of mobile optometry with a mobile optometric facility, as defined, if the optometrist meets certain requirements, including, but not limited to, that the optometrist maintain a primary business office separate from the mobile optometric facility, as specified. The bill would also require an optometrist to certify that any information included on a printed copy of an original document to a patient is true, accurate, and complete. The bill would require that the mobile optometric facility, among other things, has a vehicle identification number. The bill would exempt mobile optometric facilities that are part of an extended optometric clinical facility, as defined, from these requirements.

Because a violation of the act is a crime, this bill would expand the scope of an existing crime and would therefore 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: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 3070.2 is added to the Business and
2 Professions Code, to read:

3 3070.2. (a) For purposes of this section, “mobile optometric
4 facility” means a self-contained unit housing equipment, which
5 may include a trailer or van, that may be moved, towed, or
6 transported from one location to another in which the practice of
7 optometry is performed as defined in Section 3041. Mobile
8 optometric facilities are limited to nonprofit, charitable
9 organizations with federal tax-exempt status as described in Section
10 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3))
11 or a mobile unit that is operated by a governmental agency.

12 (b) The purpose of this section is to provide requirements for
13 mobile optometric facilities to provide optometric services as
14 authorized in Section 3041, in order to help secure the availability
15 of quality vision care services for patients who receive care in
16 remote or underserved areas and for patients who need specialized
17 types of cost-effective health care.

18 (c) An optometrist may engage in the practice of mobile
19 optometry provided that all of the following requirements are met:

20 (1) The optometrist maintains a primary business office, separate
21 from the mobile optometric facility, that meets all of the following
22 requirements:

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

26 (B) Is licensed to the optometrist or the employer of the
27 optometrist as a local business with the city or county in which
28 the primary business office is located.

29 (C) Is registered by the optometrist with the board.

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

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

4 (2) The optometrist maintains and discloses patient records in
5 the following manner:

6 (A) Records are maintained and made available to the patient
7 in such a way that the type and extent of services provided to the
8 patient are conspicuously disclosed. The disclosure of records shall
9 be made at or near the time services are rendered and shall be
10 maintained at the primary business office specified in paragraph
11 (1).

12 (B) The optometrist complies with all federal and state laws
13 and regulations regarding the maintenance and protection of
14 medical records, including, but not limited to, the federal Health
15 Insurance Portability and Accountability Act of 1996 (Public Law
16 104-191).

17 (C) The optometrist keeps all necessary records for a minimum
18 of seven years from the date of service in order to disclose fully
19 the extent of services furnished to a patient, pursuant to Section
20 3007. Any information included on a printed copy of an original
21 document to a patient shall be certified by the optometrist as being
22 true, accurate, and complete.

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

27 (i) Name.

28 (ii) License number.

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

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

32 (E) For services provided at a school site, a copy of consent by
33 the parent, guardian, or legal representative and referral or order
34 requesting optometric services from personnel in a school district
35 or county office of education, as defined in Section 49452 of the
36 Education Code and Section 591 of Title 5 of the California Code
37 of Regulations, shall be kept in the patient's medical record.

38 (3) The optometrist possesses and appropriately uses the
39 instruments and equipment required for all optometric services
40 and procedures performed within the mobile optometric facility.

- 1 (4) For mobile optometric facilities, the optometrist informs
2 patients in writing of any condition that requires follow-up care
3 or treatment.
- 4 (5) Mobile optometric facilities shall comply with all consumer
5 notice requirements of the board.
- 6 (6) There is a written procedure for follow-up care of patients
7 treated in a mobile optometric facility and that such procedure
8 includes arrangements for treatment by a local health care
9 professional.
- 10 (7) The mobile optometric facility shall arrange for emergency
11 medical care when indicated.
- 12 (8) The mobile optometric facility shall do all of the following:
 - 13 (A) Have an access ramp or lift if services are provided to
14 disabled persons.
 - 15 (B) Have adequate equipment and supplies for cleaning,
16 disinfection, and sterilization.
 - 17 (C) Have access to an adequate supply of clean running water,
18 including hot water.
 - 19 (D) Have ready access to toilet facilities.
 - 20 (E) Have a covered, galvanized stainless steel or other
21 noncorrosive metal container for deposit of refuse and waste
22 materials.
 - 23 (F) Comply with the applicable requirements of the Vehicle
24 Code, and shall have a vehicle identification number for the mobile
25 optometric facility.
 - 26 (G) Maintain in good repair and in a clean and sanitary manner.
 - 27 (H) Have a written policy and procedures that include, but are
28 not limited to, all of the following:
 - 29 (i) Scope of services.
 - 30 (ii) Procedures for the performance of the services provided.
 - 31 (iii) Quality assurance.
 - 32 (iv) Infection control.
 - 33 (v) Medical record documentation of services provided, as
34 appropriate.
 - 35 (vi) Transport for patients, including, but not limited to, a
36 method of transportation, special equipment, necessary personnel,
37 and protection from inclement weather.
 - 38 (vii) Emergency response and evacuation plan for the mobile
39 unit.

1 (I) Maintain a mobile unit services log that shall include, but is
2 not limited to, all of the following:
3 (i) Patient record or identification number.
4 (ii) Name, age, and sex of patient.
5 (iii) Site, date, time, and as appropriate, duration of exam.
6 (iv) Printed optometrist name and license number.
7 (v) Signature or electronic signature, or the equivalent.
8 (d) An optometrist who satisfies all of the requirements in this
9 section for the practice of optometry in a mobile optometric facility
10 shall not be required to comply with Section 3070 in regard to
11 providing notification to the board of each location at which he or
12 she practices.
13 (e) Mobile optometric facilities that are part of an extended
14 optometric clinical facility, as defined in Section 1507 of Title 16
15 of the California Code of Regulations, are exempt from the
16 requirements of this section.
17 (f) The licensed primary business office shall be responsible
18 for obtaining approval for parking of the mobile optometric facility
19 as required by the local planning, zoning, and fire authorities. The
20 mobile unit shall be situated for safe and comfortable patient
21 access. The mobile unit shall comply with all local parking laws.
22 Any parking restrictions developed by a primary business office
23 or clinic for mobile units shall be strictly enforced by the primary
24 business office or clinic. The primary business office or clinic shall
25 ensure that there is sufficient lighting around the perimeter of the
26 site from which the mobile unit provides any services.
27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.