

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 349

**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~~; *optometry, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 349, as amended, 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. *Under existing law, all moneys collected pursuant to the act, except where otherwise provided, are deposited in the Optometry Fund and continuously appropriated to the board to carry out the act.*

~~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:

This bill would define “mobile optometric facility” as mobile optometric equipment, including, but not limited to, a trailer or van that may be moved. The bill would limit ownership of a mobile optometric facility to a nonprofit or charitable organization, a governmental agency, or a school, as specified. The bill would require a mobile optometric facility, while providing services, to have access to, among other things, sufficient lighting around the perimeter of the work site from which the mobile optometric facility provides those services. The bill would require an owner of a mobile optometric facility to be responsible for certain things, including, but not limited to, maintaining the mobile optometric facility in good repair and in a clean and sanitary manner. The bill would also require the optometrist or owner of a mobile optometric facility to maintain and disclose patient records as specified. The bill would make these provisions operative on January 1, 2017.

This bill would require the board, by January 1, 2017, to promulgate regulations establishing a registry for mobile optometric facilities and shall set a registration fee at an amount not to exceed the costs of administration. Because this bill would increase those moneys deposited in a continuously appropriated fund, it would make an appropriation.

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~~-yes. Fiscal committee: yes. State-mandated local program: yes.

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

- 1 SECTION 1. *The Legislature finds and declares the necessity*
- 2 *of establishing regulations for mobile optometric facilities in order*
- 3 *to help secure the availability of quality vision care services for*
- 4 *patients who receive care in remote or underserved areas and for*
- 5 *patients who need specialized types of cost-effective health care.*

1 SECTION 1.

2 SEC. 2. Section 3070.2 is added to the Business and Professions
3 Code, to read:

4 3070.2. (a) For purposes of this section, “mobile optometric
5 facility” means ~~a self-contained unit housing~~ *mobile optometric*
6 *equipment, which may include a trailer or van, that may be moved,*
7 *towed, or transported from one location to another in which the*
8 *practice of optometry is performed as defined in Section 3041.*
9 ~~Mobile optometric facilities are limited to nonprofit, charitable~~
10 ~~organizations with federal tax-exempt status as described in Section~~
11 ~~501(e)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(e)(3))~~
12 ~~or a mobile unit that is operated by a governmental agency.~~
13 *“Mobile optometric facility” does not include an extended*
14 *optometric clinical facility, as defined in Section 1507 of Title 16*
15 *of the California Code of Regulations.*

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

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

24 ~~(1) The optometrist maintains a primary business office, separate~~
25 ~~from the mobile optometric facility, that meets all of the following~~
26 ~~requirements:~~

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

30 ~~(B) Is licensed to the optometrist or the employer of the~~
31 ~~optometrist as a local business with the city or county in which~~
32 ~~the primary business office is located.~~

33 ~~(C) Is registered by the optometrist with the board.~~

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

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

37 ~~(b) The ownership of a mobile optometric facility shall be limited~~
38 ~~to a nonprofit or charitable organization, a governmental agency,~~
39 ~~or a school as provided in subdivision (e) of Section 1507 of Title~~
40 ~~16 of the California Code of Regulations.~~

1 (c) The board shall promulgate regulations establishing a
2 registry for mobile optometric facilities and shall set a registration
3 fee at an amount not to exceed the costs of administration by
4 January 1, 2017.

5 ~~(2)~~

6 (d) The optometrist ~~maintains and discloses~~ or owner shall
7 maintain and disclose patient records in the following manner:

8 (A)

9 (1) Records are maintained and made available to the patient
10 in such a way that the type and extent of services provided to the
11 patient are conspicuously disclosed. ~~The disclosure of records shall~~
12 ~~be made at or near the time services are rendered and shall be~~
13 ~~maintained at the primary business office specified in paragraph~~
14 ~~(1): The optometrist shall notify the patient where his or her~~
15 ~~records are stored and how the patient may access them.~~

16 (B)

17 (2) The optometrist individual maintaining the records complies
18 with all federal and state laws and regulations regarding the
19 maintenance and protection of medical records, including, but not
20 limited to, the federal Health Insurance Portability and
21 Accountability Act of 1996 (Public Law 104-191).

22 ~~(C) The optometrist keeps all necessary records for a minimum~~
23 ~~of seven years from the date of service in order to disclose fully~~
24 ~~the extent of services furnished to a patient, pursuant to Section~~
25 ~~3007. Any information included on a printed copy of an original~~
26 ~~document to a patient shall be certified by the optometrist as being~~
27 ~~true, accurate, and complete.~~

28 (D)

29 (3) If a prescription is issued to a patient, records shall be
30 maintained for each prescription as part of the patient's record,
31 including all of the following ~~information about the prescribing~~
32 ~~optometrist: information.~~

33 (i) ~~Name.~~

34 (ii) ~~License number.~~

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

36 (A) ~~The optometrist's name, license number, and contact~~
37 ~~information~~

38 (B) ~~The mobile facility's owner, registration, and contact~~
39 ~~information.~~

40 (C) ~~The location at which optometric services were provided.~~

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

4 (E)
5 (4) For services provided at a schoolsite, a copy of consent by
6 the parent, guardian, or legal representative and referral or order
7 requesting optometric services from personnel in a school district
8 or county office of education, as defined in Section 49452 of the
9 Education Code and Section 591 of Title 5 of the California Code
10 of Regulations, shall be kept in the patient's medical record.

11 ~~(3) The optometrist possesses and appropriately uses the~~
12 ~~instruments and equipment required for all optometric services~~
13 ~~and procedures performed within the mobile optometric facility.~~

14 ~~(4) For mobile optometric facilities, the optometrist informs~~
15 ~~patients in writing of any condition that requires follow-up care~~
16 ~~or treatment.~~

17 ~~(5) Mobile optometric facilities shall comply with all consumer~~
18 ~~notice requirements of the board.~~

19 ~~(6) There is a written procedure for follow-up care of patients~~
20 ~~treated in a mobile optometric facility and that such procedure~~
21 ~~includes arrangements for treatment by a local health care~~
22 ~~professional.~~

23 ~~(7) The mobile optometric facility shall arrange for emergency~~
24 ~~medical care when indicated.~~

25 ~~(8) The mobile optometric facility shall do all of the following:~~

26 ~~(A) Have an access ramp or lift if services are provided to~~
27 ~~disabled persons.~~

28 ~~(B) Have adequate~~

29 ~~(e) A mobile optometric facility shall comply with applicable~~
30 ~~federal and state laws governing access for disabled individuals.~~

31 ~~(f) When providing services, a mobile optometric facility shall~~
32 ~~have access to all of the following:~~

33 ~~(1) Adequate equipment and supplies for cleaning, disinfection,~~
34 ~~and sterilization.~~

35 ~~(C) Have access to an~~

36 ~~(2) Adequate instruments and equipment required for all~~
37 ~~optometric services and procedures performed within the mobile~~
38 ~~optometric facility.~~

39 ~~(3) An adequate supply of clean clean, running water, including~~
40 ~~hot and cold water.~~

- 1 ~~(D) Have ready access to toilet~~
- 2 (4) Toilet facilities.
- 3 ~~(E) Have a~~
- 4 (5) A covered, galvanized stainless steel or other noncorrosive
- 5 metal container for deposit of refuse and waste materials.
- 6 ~~(F) Comply~~
- 7 (6) Sufficient lighting around the perimeter of the work site from
- 8 which the mobile optometric facility provides any services.
- 9 (g) An owner of an optometric facility shall be responsible for
- 10 all of the following:
- 11 (1) Compliance with the applicable requirements of the Vehicle
- 12 Code, and shall have a vehicle identification number for the mobile
- 13 optometric facility. Code.
- 14 ~~(G) Maintain~~
- 15 (2) Maintaining the mobile optometric facility in good repair
- 16 and in a clean and sanitary manner.
- 17 ~~(H) Have a written policy~~
- 18 (3) Establishing written policies and procedures that include,
- 19 but are not limited to, all of the following:
- 20 (i)
- 21 (A) Scope of services.
- 22 (ii)
- 23 (B) Procedures for the performance of the services provided.
- 24 ~~(iii)~~
- 25 (C) Quality assurance.
- 26 ~~(iv)~~
- 27 (D) Infection control.
- 28 ~~(v)~~
- 29 (E) Medical record documentation of services provided, as
- 30 appropriate. provided.
- 31 ~~(vi) Transport for patients, including, but not limited to, a~~
- 32 ~~method of transportation, special equipment, necessary personnel,~~
- 33 ~~and protection from inclement weather.~~
- 34 ~~(vii)~~
- 35 (F) Emergency response and evacuation plan for the mobile
- 36 unit.
- 37 ~~(I) Maintain~~
- 38 (G) Arrangements for treatment by a local health care
- 39 professional.
- 40 (H) Patient emergency medical care.

1 (I) Written notification for patients of any condition that requires
2 follow-up care or treatment.

3 (4) Maintaining a mobile unit services log that shall include,
4 but is not limited to, all of the following:

5 (i)

6 (A) Patient record or identification number.

7 (ii)

8 (B) Name, age, and sex of patient.

9 (iii)

10 (C) Site, date, time, and as appropriate, duration of exam.

11 (iv)

12 (D) Printed optometrist name and license number.

13 (v)

14 (E) Signature or electronic signature, or the equivalent.

15 (d)

16 (h) An optometrist who satisfies all of the requirements in this
17 section for the practice of optometry in a mobile optometric facility
18 shall not be required to comply with ~~Section~~ Sections 3070 and
19 3077 in regard to providing notification to the board of each
20 location at which he or she practices.

21 ~~(e) Mobile optometric facilities that are part of an extended~~
22 ~~optometric clinical facility, as defined in Section 1507 of Title 16~~
23 ~~of the California Code of Regulations, are exempt from the~~
24 ~~requirements of this section.~~

25 ~~(f) The licensed primary business office shall be responsible~~
26 ~~for obtaining approval for parking of the mobile optometric facility~~
27 ~~as required by the local planning, zoning, and fire authorities. The~~
28 ~~mobile unit shall be situated for safe and comfortable patient~~
29 ~~access. The mobile unit shall comply with all local parking laws.~~
30 ~~Any parking restrictions developed by a primary business office~~
31 ~~or clinic for mobile units shall be strictly enforced by the primary~~
32 ~~business office or clinic. The primary business office or clinic shall~~
33 ~~ensure that there is sufficient lighting around the perimeter of the~~
34 ~~site from which the mobile unit provides any services.~~

35 (i) This section shall become operative on January 1, 2017.

36 ~~SEC. 2.~~

37 SEC. 3. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

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