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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 684

Introduced by Assembly Members Alejo and Bonilla

February 25, 2015

An act to amend Sections 2546.2, 2546.9, 2550.1, 2556, 2567, 3010.5, 3011, and 3013 of, to add Sections 2556.1 and 3020 to, to add and repeal Section 2556.2 of, and to repeal and add Section 655 of, the Business and Professions Code, relating to healing arts, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 2546.2, 2546.9, 2550.1, 2554, 2556, 2567, 3010.5, 3011, 3013 of, to add Sections 2556.1, 2556.2, 3020, 3021, 3023.1 to, and to repeal and add Section 655 of, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 684, as amended, Alejo. State Board of Optometry: optometrists: nonresident contact lens sellers: registered dispensing opticians.

Existing law prohibits a licensed optometrist and a registered dispensing optician from having any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, with each other. Existing

law prohibits a licensed optometrist from having any membership, proprietary interest, coownership, landlord-tenant relationship, or any profit-sharing arrangement in any form, directly or indirectly, either by stock ownership, interlocking directors, trusteeship, mortgage, trust deed, or otherwise with any person who is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, or dispensing opticians of lenses, frames, optical supplies, optometric appliances or devices or kindred products. Existing law makes a violation of these provisions by a licensed optometrist and any other persons, whether or not a healing arts licensee, who participates with a licensed optometrist, subject to a crime.

Under existing law, the Medical Board of California is responsible for the registration and regulation of nonresident contact lens sellers and dispensing opticians. Existing law requires fees collected from nonresident contact lens sellers to be deposited in the Dispensing Opticians Fund, and to be available, upon appropriation, to the Medical Board of California. Existing law requires fees collected from registered dispensing optician to be paid into the Contingent Fund of the Medical Board of California. Existing law makes a violation of the registered dispensing optician provisions a crime. Existing law, the Optometry Practice Act, makes the State Board of Optometry responsible for the licensure and regulation of optometrists. A violation of the Optometry Practice Act is a crime. Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime.

This bill would repeal those prohibitions. The bill would prohibit a licensed optometrist from having any membership, proprietary interest, coownership, or any profit-sharing arrangement, either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with any registered dispensing optician or any person who is engaged in the manufacture, sale, or distribution to physicians and surgeons, optometrists, or registered dispensing opticians of lenses, frames, optical supplies, optometric appliances or devices or kindred products *optical company, as defined*, except as otherwise authorized. The bill would authorize a registered dispensing optician *or optical company* to operate, own, or have an ownership interest in a licensed health care service plan and to directly or indirectly provide products and services to the health care service plan or its contracted providers and enrollees, if the health care service plan meets certain requirements. *health plan, defined*

as a licensed health care service plan, if the health plan does not directly employ optometrists to provide optometric services directly to enrollees of the health plan, and would also provide for the direct or indirect provision of products and services to the health plan or its contracted providers or enrollees or to other optometrists, as specified. The bill would authorize an optometrist, a registered dispensing optician, ~~and an optical company, or a health-care service plan~~ to execute a lease or other written agreement giving rise to a direct or indirect landlord-tenant relationship *with an optometrist* if specified conditions are contained in a written agreement, as provided. ~~The bill would require a landlord or tenant to comply with an enforcement entity's request to inspect a lease agreement.~~ *The bill would authorize the State Board of Optometry, to inspect, upon request, an individual lease agreement, and the bill would require the landlord or tenant to comply.* Because the failure to comply with that request would be a crime under specified acts, the bill would impose a state-mandated local program. The bill would prohibit a registered dispensing optician from having any membership, proprietary interest, coownership, or profit sharing arrangement either by stock ownership, interlocking directors, trusteeship, mortgage, or trust deed, with an optometrist, except as authorized. The bill would make a violation of these provisions a crime. By creating a new crime, the bill would impose a state-mandated local program.

This bill would instead make the State Board of Optometry responsible for the registration and regulation of nonresident contact lens sellers and dispensing opticians. The bill would direct fees collected from registered dispensing opticians and persons seeking registration as a dispensing optician to be paid into the Dispensing Opticians Fund, and to be available, upon appropriation, to the State Board of Optometry. *The bill would make various conforming changes in this regard.*

Existing law requires each registered dispensing optician to conspicuously and prominently display at each registered location the name of the registrant's employee who is currently designated to handle customer inquiries and complaints and the telephone number where he or she may be reached during business hours.

This bill would instead require specified consumer information to be displayed. Because a violation of the registered dispensing provisions would be a crime, the bill would impose a state-mandated local program.

Existing law makes it unlawful to, among other things, advertise the furnishing of, or to furnish, the services of a refractionist, an optometrist,

or a physician and surgeon, or to directly or indirectly employ or maintain on or near the premises used for optical dispensing, a refractionist, an optometrist, a physician and surgeon, or a practitioner of any other profession for the purpose of any examination or treatment of the eyes.

This bill, except as specified, would make it unlawful for a registered dispensing optician to, among other things, advertise the furnishing of, or to furnish, the services of an optometrist or a physician and surgeon or to directly employ an optometrist or physician and surgeon for the purpose of any examination or treatment of the eyes. The bill would authorize the State Board of Optometry, by regulation, to impose and issue administrative fines and citations for a violation of these provisions, as specified. *The bill would require all licensed optometrists in a setting with a registered dispensing optician to report the business relationship to the State Board of Optometry.* The bill would authorize the State Board of Optometry to inspect any premises at which the business of a registered dispensing optician is co-located with the practice of an optometrist for the purposes of determining compliance with the aforementioned written lease agreement provisions. The bill would also authorize the State Board of Optometry to take disciplinary action against a party who fails to comply with the inspection and would require the State Board of Optometry to provide specified copies of the inspection results. ~~Because the failure to comply with the inspection would be a crime under the registered dispensing provisions, a violation of the registered dispensing provisions would be a crime,~~ the bill would impose a state-mandated local program

This bill, until January 1, 2019, would prohibit an individual, corporation, or firm operating as a registered dispensing optician before the effective date of the bill, or an employee of such an entity, from being subject to any action for engaging in that aforementioned unlawful conduct. *The bill would require any health plan subject to these provisions to report to the State Board of Optometry in writing that certain percentages of its locations no longer employ an optometrist by specified dates. The bill would require the State Board of Optometry to provide those reports to the Director of Consumer Affairs and the Legislature.*

Under existing law, the State Board of Optometry consists of 11 members, 6 licensee members and 5 public members.

This bill would require one of the nonpublic members to be a registered dispensing optician and would require the Governor to make

that appointment. The bill would establish within the State Board of Optometry a ~~Registered Dispensing Optician Committee to oversee the registration and enforcement of registered dispensing opticians~~ *to advise and make recommendations to the board regarding the regulation of dispensing opticians*, as provided. *The bill would require the advisory committee to consist of 5 members, including 2 registered dispensing opticians, 2 public members, and a member of the State Board of Optometry.*

~~This bill would make various conforming changes.~~

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -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 655 of the Business and Professions Code
- 2 is repealed.
- 3 655. ~~(a) No person licensed under Chapter 7 (commencing~~
- 4 ~~with Section 3000) of this division may have any membership,~~
- 5 ~~proprietary interest, coownership, landlord-tenant relationship, or~~
- 6 ~~any profit-sharing arrangement in any form, directly or indirectly,~~
- 7 ~~with any person licensed under Chapter 5.5 (commencing with~~
- 8 ~~Section 2550) of this division.~~
- 9 ~~(b) No person licensed under Chapter 5.5 (commencing with~~
- 10 ~~Section 2550) of this division may have any membership,~~
- 11 ~~proprietary interest, coownership, landlord-tenant relationship, or~~
- 12 ~~any profit-sharing arrangement in any form directly or indirectly~~

1 with any person licensed under Chapter 7 (commencing with
2 Section 3000) of this division.

3 (e) No person licensed under Chapter 7 (commencing with
4 Section 3000) of this division may have any membership,
5 proprietary interest, coownership, landlord-tenant relationship, or
6 any profit-sharing arrangement in any form, directly or indirectly,
7 either by stock ownership, interlocking directors, trusteeship,
8 mortgage, trust deed, or otherwise with any person who is engaged
9 in the manufacture, sale, or distribution to physicians and surgeons,
10 optometrists, or dispensing opticians of lenses, frames, optical
11 supplies, optometric appliances or devices or kindred products.

12 Any violation of this section constitutes a misdemeanor as to
13 such person licensed under Chapter 7 (commencing with Section
14 3000) of this division and as to any and all persons, whether or
15 not so licensed under this division, who participate with such
16 licensed person in a violation of any provision of this section.

17 SEC. 2. Section 655 is added to the Business and Professions
18 Code, to read:

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

21 (1) "Health plan" means a health care service plan licensed
22 pursuant to the Knox-Keene Health Care Service Plan Act of 1975
23 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the
24 Health and Safety Code).

25 (2) "Optical company" means a person or entity that is engaged
26 in the manufacture, sale, or distribution to physicians and
27 surgeons, optometrists, health plans, or dispensing opticians of
28 lenses, frames, optical supplies, or optometric appliances or
29 devices or kindred products.

30 (3) "Optometrist" means a person licensed pursuant to Chapter
31 7 (commencing with Section 3000) or an optometric corporation,
32 as described in Section 3160.

33 (4) "Registered dispensing optician" means a person licensed
34 pursuant to Chapter 5.5 (commencing with Section 2550).

35 (5) "Therapeutic ophthalmic product" means lenses or other
36 products that provide direct treatment of eye disease or visual
37 rehabilitation for diseased eyes.

38 (b) No optometrist may have any membership, proprietary
39 interest, coownership, or any profit-sharing arrangement, either
40 by stock ownership, interlocking directors, trusteeship, mortgage,

1 *or trust deed, with any registered dispensing optician or any optical*
2 *company, except as otherwise permitted under this section.*

3 *(c) (1) A registered dispensing optician or an optical company*
4 *may operate, own, or have an ownership interest in a health plan*
5 *so long as the health plan does not directly employ optometrists*
6 *to provide optometric services directly to enrollees of the health*
7 *plan, and may directly or indirectly provide products and services*
8 *to the health plan or its contracted providers or enrollees or to*
9 *other optometrists. For purposes of this section, an optometrist*
10 *may be employed by a health plan as a clinical director for the*
11 *health plan pursuant to Section 1367.01 of the Health and Safety*
12 *Code or to perform services related to utilization management or*
13 *quality assurance or other similar related services that do not*
14 *require the optometrist to directly provide health care services to*
15 *enrollees. In addition, an optometrist serving as a clinical director*
16 *may not employ optometrists to provide health care services to*
17 *enrollees of the health plan for which the optometrist is serving*
18 *as clinical director. For the purposes of this section, the health*
19 *plan's utilization management and quality assurance programs*
20 *that are consistent with the Knox-Keene Health Care Service Plan*
21 *Act of 1975 (Chapter 2.2 (commencing with Section 1340) of*
22 *Division 2 of the Health and Safety Code) do not constitute*
23 *providing health care services to enrollees.*

24 *(2) The registered dispensing optician or optical company shall*
25 *not interfere with the professional judgment of the optometrist.*

26 *(3) The Department of Managed Health Care shall forward to*
27 *the State Board of Optometry any complaints received from*
28 *consumers that allege that an optometrist violated the Optometry*
29 *Practice Act (Chapter 7 (commencing with Section 3000)). The*
30 *Department of Managed Health Care and the State Board of*
31 *Optometry shall enter into an Inter-Agency Agreement regarding*
32 *the sharing of information related to the services provided by an*
33 *optometrist that may be in violation of the Optometry Practice Act*
34 *that the Department of Managed Health Care encounters in the*
35 *course of the administration of the Knox-Keene Health Care*
36 *Service Plan Act of 1975 (Chapter 2.2 (commencing with section*
37 *1340) of Division 2 of the Health and Safety Code.*

38 *(d) An optometrist, a registered dispensing optician, an optical*
39 *company, or a health plan may execute a lease or other written*
40 *agreement giving rise to a direct or indirect landlord-tenant*

1 relationship with an optometrist, if all of the following conditions
2 are contained in a written agreement establishing the
3 landlord-tenant relationship:

4 (1) (A) The practice shall be owned by the optometrist and in
5 every phase be under the optometrist's exclusive control, including
6 the selection and supervision of optometric staff, the scheduling
7 of patients, the amount of time the optometrist spends with patients,
8 fees charged for optometric products and services, the examination
9 procedures and treatment provided to patients and the
10 optometrist's contracting with managed care organizations.

11 (B) Subparagraph A shall not preclude a lease from including
12 commercially reasonable terms that: (i) require the provision of
13 optometric services at the leased space during certain days and
14 hours, (ii) restrict the leased space from being used for the sale
15 or offer for sale of spectacles, frames, lenses, contact lenses, or
16 other ophthalmic products, except that the optometrist shall be
17 permitted to sell therapeutic ophthalmic products if the registered
18 dispensing optician, health plan, or optical company located on
19 or adjacent to the optometrist's leased space does not offer any
20 substantially similar therapeutic ophthalmic products for sale,
21 (iii) require the optometrist to contract with a health plan network,
22 health plan, or health insurer; or (iv) permit the landlord to directly
23 or indirectly provide furnishings and equipment in the leased
24 space.

25 (2) The optometrist's records shall be the sole property of the
26 optometrist. Only the optometrist and those persons with written
27 authorization from the optometrist shall have access to the patient
28 records and the examination room, except as otherwise provided
29 by law.

30 (3) The optometrist's leased space shall be definite and distinct
31 from space occupied by other occupants of the premises, have a
32 sign designating that the leased space is occupied by an
33 independent optometrist or optometrists and be accessible to the
34 optometrist after hours or in the case of an emergency, subject to
35 the facility's general accessibility. This paragraph shall not require
36 a separate entrance to the optometrist's leased space.

37 (4) All signs and displays shall be separate and distinct from
38 that of the other occupants and shall have the optometrist's name
39 and the word "optometrist" prominently displayed in connection
40 therewith. This paragraph shall not prohibit the optometrist from

1 advertising the optometrist's practice location with reference to
2 other occupants or prohibit the optometrist or registered dispensing
3 optician from advertising their participation in any health plan's
4 network or the health plan's products in which the optometrist or
5 registered dispensing optician participates.

6 (5) There shall be no signs displayed on any part of the premises
7 or in any advertising indicating that the optometrist is employed
8 or controlled by the registered dispensing optician, health plan or
9 optical company.

10 (6) Except for a statement that an independent doctor of
11 optometry is located in the leased space, in-store pricing signs
12 and as otherwise permitted by this subdivision, the registered
13 dispensing optician or optical company shall not link its advertising
14 with the optometrist's name, practice, or fees.

15 (7) Notwithstanding paragraphs (4) and (6), this subdivision
16 shall not preclude a health plan from advertising its health plan
17 products and associated premium costs and any copayments,
18 coinsurance, deductibles, or other forms of cost-sharing, or the
19 names and locations of the health plan's providers, including any
20 optometrists or registered dispensing opticians that provide
21 professional services, in compliance with the Knox-Keene Health
22 Care Service Plan Act of 1975 (Chapter 2.2 (commencing with
23 Section 1340) of Division 2 of the Health and Safety Code).

24 (8) A health plan that advertises its products and services in
25 accordance with paragraph (7) shall not advertise the optometrist's
26 fees for products and services that are not included in the health
27 plan's contract with the optometrist.

28 (9) The optometrist shall not be precluded from collecting fees
29 for services that are not included in a health plan's products and
30 services, subject to any patient disclosure requirements contained
31 in the health plan's provider agreement with the optometrist or
32 that are not otherwise prohibited by the Knox-Keene Health Care
33 Service Plan Act of 1975 (Chapter 2.2 (commencing with Section
34 1340) of Division 2 of the Health and Safety Code).

35 (10) The term of the lease shall be no less than one year and
36 shall not require the optometrist to contract exclusively with a
37 health plan. The optometrist may terminate the lease according
38 to the terms of the lease. The landlord may terminate the lease for
39 the following reasons:

1 (A) *The optometrist's failure to maintain a license to practice*
2 *optometry or the imposition of restrictions, suspension or*
3 *revocation of the optometrist's license or if the optometrist or the*
4 *optometrist's employee is or becomes ineligible to participate in*
5 *state or federal government-funded programs.*

6 (B) *Termination of any underlying lease where the optometrist*
7 *has subleased space, or the optometrist's failure to comply with*
8 *the underlying lease provisions that are made applicable to the*
9 *optometrist.*

10 (C) *If the health plan is the landlord, the termination of the*
11 *provider agreement between the health plan and the optometrist,*
12 *in accordance with the Knox-Keene Health Care Service Plan Act*
13 *of 1975 (Chapter 2.2 (commencing with Section 1340) of Division*
14 *2 of the Health and Safety Code).*

15 (D) *Other reasons pursuant to the terms of the lease or permitted*
16 *under the Civil Code.*

17 (11) *The landlord shall act in good faith in terminating the lease*
18 *and in no case shall the landlord terminate the lease for reasons*
19 *that constitute interference with the practice of optometry.*

20 (12) *Lease or rent terms and payments shall not be based on*
21 *number of eye exams performed, prescriptions written, patient*
22 *referrals or the sale or promotion of the products of a registered*
23 *dispensing optician or an optical company.*

24 (13) *The landlord shall not terminate the lease solely because*
25 *of a report, complaint, or allegation filed by the optometrist against*
26 *the landlord, a registered dispensing optician or a health plan, to*
27 *the State Board of Optometry or the Department of Managed*
28 *Health Care or any law enforcement or regulatory agency.*

29 (14) *The landlord shall provide the optometrist with written*
30 *notice of the scheduled expiration date of a lease at least 60 days*
31 *prior to the scheduled expiration date. This notice obligation shall*
32 *not affect the ability of either party to terminate the lease pursuant*
33 *to this section. The landlord may not interfere with an outgoing*
34 *optometrist's efforts to inform the optometrist's patients, in*
35 *accordance with customary practice and professional obligations,*
36 *of the relocation of the optometrist's practice.*

37 (15) *The State Board of Optometry may inspect, upon request,*
38 *an individual lease agreement pursuant to its investigational*
39 *authority, and if such a request is made, the landlord or tenant,*
40 *as applicable, shall promptly comply with the request. Failure or*

1 refusal to comply with the request for lease agreements within 30
2 days of receiving the request constitutes unprofessional conduct
3 and is grounds for disciplinary action by the appropriate
4 regulatory agency. Only personal information as defined in Section
5 1798.3 of the Civil Code may be redacted prior to submission of
6 the lease or agreement. This section shall not affect the Department
7 of Managed Health Care's authority to inspect all books and
8 records of a health plan pursuant to Section 1381 of the Health
9 and Safety Code.

10 Any financial information contained in the lease submitted to a
11 regulatory entity, pursuant to this paragraph, shall be considered
12 confidential trade secret information that is exempt from disclosure
13 under the California Public Records Act (Chapter 3.5 (commencing
14 with Section 6250) of Division 7 of Title 1 of the Government
15 Code.)

16 (16) This subdivision shall not be applicable to the relationship
17 between any optometrist employee and the employer medical
18 group, or the relationship between a medical group exclusively
19 contracted with a health plan regulated by the Department of
20 Managed Health Care and that health plan.

21 (e) No registered dispensing optician may have any membership,
22 proprietary interest, coownership, or profit sharing arrangement
23 either by stock ownership, interlocking directors, trusteeship,
24 mortgage, or trust deed, with an optometrist, except as permitted
25 under this section.

26 (f) Nothing in this section shall prohibit a person licensed under
27 Chapter 5 (commencing with Section 2000) or its professional
28 corporation from contracting with or employing optometrists,
29 ophthalmologists, or optometric assistants and entering into a
30 contract or landlord tenant relationship with a health plan, an
31 optical company, or a registered dispensing optician, in
32 accordance with Sections 650 and 654 of this code.

33 (g) Any violation of this section constitutes a misdemeanor as
34 to such person licensed under Chapter 7 (commencing with Section
35 3000) of this division and as to any and all persons, whether or
36 not so licensed under this division, who participate with such
37 licensed person in a violation of any provision of this section.

38 SEC. 3. Section 2546.2 of the Business and Professions Code
39 is amended to read:

1 2546.2. All references in this chapter to the division shall mean
 2 ~~the Medical Board of California.~~ *State Board of Optometry.*

3 *SEC. 4. Section 2546.9 of the Business and Professions Code*
 4 *is amended to read:*

5 2546.9. The amount of fees prescribed in connection with the
 6 registration of nonresident contact lens sellers is that established
 7 by the following schedule:

8 (a) The initial registration fee shall be one hundred dollars
 9 (\$100).

10 (b) The renewal fee shall be one hundred dollars (\$100).

11 (c) The delinquency fee shall be twenty-five dollars (\$25).

12 (d) The fee for replacement of a lost, stolen, or destroyed
 13 registration shall be twenty-five dollars (\$25).

14 (e) The fees collected pursuant to this chapter shall be deposited
 15 in the Dispensing Opticians Fund, and shall be available, upon
 16 appropriation, to the ~~Medical Board of California~~ *State Board of*
 17 *Optometry* for the purposes of this chapter.

18 *SEC. 5. Section 2550.1 of the Business and Professions Code*
 19 *is amended to read:*

20 2550.1. All references in this chapter to the board or the Board
 21 of Medical Examiners or division shall mean the ~~Medical Board~~
 22 ~~of California.~~ *State Board of Optometry.*

23 *SEC. 6. Section 2554 of the Business and Professions Code is*
 24 *amended to read:*

25 2554. Each registrant shall conspicuously and prominently
 26 display at each registered location ~~the name of the registrant's~~
 27 ~~employee who is currently designated to handle customer inquiries~~
 28 ~~and complaints and the telephone number where he or she may be~~
 29 ~~reached during business hours.~~ *the following consumer information:*

30 ~~This section shall become operative on January 1, 1988.~~

31 *“Eye doctors are required to provide patients with a copy of*
 32 *their ophthalmic lens prescriptions as follows:*

33 *Spectacle prescriptions: Release upon completion of exam.*

34 *Contact lens prescriptions: Release upon completion of exam*
 35 *or upon completion of the fitting process.*

36 *Patients may take their prescription to any eye doctor or*
 37 *registered dispensing optician to be filled.*

38 *Optometrists and registered dispensing opticians are regulated*
 39 *by the State Board of Optometry. The State Board of Optometry*
 40 *receives and investigates all consumer complaints involving the*

1 *practice of optometry and registered dispensing opticians.*
2 *Complaints involving a California-licensed optometrist or a*
3 *registered dispensing optician should be directed to:*

4 *California State Board of Optometry*
5 *Department of Consumer Affairs*
6 *2450 Del Paso Road, Suite 105*
7 *Sacramento, CA 95834*
8 *Phone: 1-866-585-2666 or (916) 575-7170*
9 *Email: optometry@dca.ca.gov*
10 *Website: www.optometry.ca.gov”*

11 *SEC. 7. Section 2556 of the Business and Professions Code is*
12 *amended to read:*

13 *2556. ~~It~~(a) Except as authorized by Section 655, it is unlawful*
14 *for a registered dispensing optician to do any of the following: to*
15 *advertise the furnishing of, or to furnish, the services of—a*
16 *refractionist, an—optometrist, optometrist or a physician and*
17 *surgeon; surgeon, to directly or indirectly employ or maintain on*
18 *or near the premises used for optical dispensing, a refractionist,*
19 *an optometrist, a physician and surgeon, or a practitioner of any*
20 *other profession an optometrist or physician and surgeon for the*
21 *purpose of any examination or treatment of the eyes; eyes, or to*
22 *duplicate or change lenses without a prescription or order from a*
23 *person duly licensed to issue the same. For the purposes of this*
24 *section, “furnish” does not mean to enter into a landlord-tenant*
25 *relationship of any kind.*

26 *(b) Notwithstanding Section 125.9, the board may, by regulation,*
27 *impose and issue administrative fines and citations for a violation*
28 *of this section or Section 655, which may be assessed in addition*
29 *to any other applicable fines, citations, or administrative or*
30 *criminal actions.*

31 *SEC. 8. Section 2556.1 is added to the Business and Professions*
32 *Code, to read:*

33 *2556.1. All licensed optometrists in a setting with a registered*
34 *dispensing optician shall report the business relationship to the*
35 *State Board of Optometry, as determined by the board. The State*
36 *Board of Optometry shall have the authority to inspect any*
37 *premises at which the business of a registered dispensing optician*
38 *is co-located with the practice of an optometrist, for the purposes*
39 *of determining compliance with Section 655. The inspection may*
40 *include the review of any written lease agreement between the*

1 registered dispensing optician and the optometrist or between the
2 optometrist and the health plan. Failure to comply with the
3 inspection or any request for information by the board may subject
4 the party to disciplinary action. The board shall provide a copy
5 of its inspection results, if applicable, to the Department of
6 Managed Health Care.

7 SEC. 9. Section 2556.2 is added to the Business and Professions
8 Code, to read:

9 2556.2. (a) Notwithstanding any other law, subsequent to the
10 effective date of this section and until January 1, 2019, any
11 individual, corporation, or firm operating as a registered
12 dispensing optician under this chapter before the effective date of
13 this section, or an employee of such an entity, shall not be subject
14 to any action for engaging in conduct prohibited by Section 2556
15 or Section 655 as those sections existed prior to the effective date
16 of this bill, except that a registrant shall be subject to discipline
17 for duplicating or changing lenses without a prescription or order
18 from a person duly licensed to issue the same.

19 (b) Nothing in this section shall be construed to imply or suggest
20 that a person registered under this chapter is in violation of or in
21 compliance with the law.

22 (c) This section shall not apply to any business relationships
23 prohibited by Section 2556 commencing registration or operations
24 on or after the effective date of this section.

25 (d) Subsequent to the effective date of this section and until
26 January 1, 2019, nothing in this section shall prohibit an
27 individual, corporation, or firm operating as a registered
28 dispensing optician from engaging in a business relationship with
29 an optometrist licensed pursuant to Chapter 7 (commencing with
30 Section 3000) before the effective date of this section at locations
31 registered with the Medical Board of California before the effective
32 date of this section.

33 (e) This section does not apply to any administrative action
34 pending, litigation pending, cause for discipline, or cause of action
35 accruing prior to September 1, 2015.

36 (f) Any health plan, as defined in Section 655, subject to this
37 section shall report to the State Board of Optometry in writing
38 that (1) 15 percent of its locations no longer employ an optometrist
39 by January 1, 2017, (2) 45 percent of its locations no longer employ
40 an optometrist by August 1, 2017, and (3) 100 percent of its

1 *locations no longer employ an optometrist by January 1, 2019.*
2 *The board shall provide those reports as soon as it receives them*
3 *to the director and the Legislature. The report to the Legislature*
4 *shall be submitted in compliance with Section 9795 of the*
5 *Government Code.*

6 *SEC. 10. Section 2567 of the Business and Professions Code*
7 *is amended to read:*

8 2567. (a) The provisions of Article 19 (commencing with
9 Section 2420) and Article 20 (commencing with Section 2435) of
10 Chapter 5 which are not inconsistent or in conflict with this chapter
11 apply to the issuance and govern the expiration and renewal of
12 certificates issued under this chapter. All fees collected from
13 persons registered or seeking registration under this chapter shall
14 be paid into the ~~Contingent Fund of the Medical Board of~~
15 ~~California.~~ *Dispensing Opticians Fund, and shall be available,*
16 *upon appropriation, to the State Board of Optometry for the*
17 *purposes of this chapter. Any moneys within the Contingent Fund*
18 *of the Medical Board of California collected pursuant to this*
19 *chapter shall be deposited in the Dispensing Opticians Fund.*

20 (b) The board may employ, subject to civil service regulations,
21 whatever additional clerical assistance is necessary for the
22 administration of this chapter.

23 *SEC. 11. Section 3010.5 of the Business and Professions Code*
24 *is amended to read:*

25 3010.5. (a) There is in the Department of Consumer Affairs
26 a State Board of Optometry in which the enforcement of this
27 chapter is vested. The board consists of 11 members, five of whom
28 shall be public ~~members.~~ *members and one of the nonpublic*
29 *members shall be an individual registered as a dispensing optician.*
30 *The registered dispensing optician member shall be registered*
31 *pursuant to Chapter 5.5. (commencing with Section 2550) and in*
32 *good standing with the board.*

33 Six members of the board shall constitute a quorum.

34 (b) The board shall, with respect to conducting investigations,
35 inquiries, and disciplinary actions and proceedings, have the
36 authority previously vested in the board as created pursuant to
37 former Section 3010. The board may enforce any disciplinary
38 actions undertaken by that board.

39 (c) This section shall remain in effect only until January 1, 2018,
40 and as of that date is repealed, unless a later enacted statute, that

1 is enacted before January 1, 2018, deletes or extends that date.
2 Notwithstanding any other law, the repeal of this section renders
3 the board subject to review by the appropriate policy committees
4 of the Legislature.

5 *SEC. 12. Section 3011 of the Business and Professions Code*
6 *is amended to read:*

7 3011. Members of the board, except the public members *and*
8 *the registered dispensing optician member*, shall be appointed only
9 from persons who are registered optometrists of the State of
10 California and actually engaged in the practice of optometry at the
11 time of appointment or who are members of the faculty of a school
12 of optometry. The public members shall not be a licentiate of the
13 board or of any other board under this division or of any board
14 referred to in Sections 1000 and 3600.

15 No person *except the registered dispensing optician member*,
16 including the public members, shall be eligible to membership in
17 the board who is a stockholder in or owner of or a member of the
18 board of trustees of any school of optometry or who shall be
19 financially interested, directly or indirectly, in any concern
20 manufacturing or dealing in optical supplies at wholesale.

21 ~~No person, including the public members,~~ *person* shall serve as
22 a member of the board for more than two consecutive terms.

23 A member of the faculty of a school of optometry may be
24 appointed to the board; however, no more than two faculty
25 members of schools of optometry may be on the board at any one
26 time. Faculty members of the board shall not serve as public
27 members.

28 *SEC. 13. Section 3013 of the Business and Professions Code*
29 *is amended to read:*

30 3013. (a) Each member of the board shall hold office for a
31 term of four years, and shall serve until the appointment and
32 qualification of his or her successor or until one year shall have
33 elapsed since the expiration of the term for which he or she was
34 appointed, whichever first occurs.

35 (b) Vacancies occurring shall be filled by appointment for the
36 unexpired term.

37 (c) The Governor shall appoint three of the public members ~~and~~
38 ~~the six members,~~ *five* members qualified as provided in Section
39 ~~3011. 3011,~~ *and the registered dispensing optician member as*

1 *provided in Section 3010.5.* The Senate Committee on Rules and
2 the Speaker of the Assembly shall each appoint a public member.

3 (d) No board member serving between January 1, 2000, and
4 June 1, 2002, inclusive, shall be eligible for reappointment.

5 (e) For initial appointments made on or after January 1, 2003,
6 one of the public members appointed by the Governor and two of
7 the professional members shall serve terms of one year. One of
8 the public members appointed by the Governor and two of the
9 professional members shall serve terms of three years. The
10 remaining public member appointed by the Governor and the
11 remaining two professional members shall serve terms of four
12 years. The public members appointed by the Senate Committee
13 on Rules and the Speaker of the Assembly shall each serve for a
14 term of four years.

15 (f) *The initial appointment of a registered dispensing optician*
16 *member shall replace the optometrist member whose term expired*
17 *on June 1, 2015.*

18 *SEC. 14. Section 3020 is added to the Business and Professions*
19 *Code, to read:*

20 *3020. (a) There shall be established under the State Board of*
21 *Optometry a dispensing optician committee to advise and make*
22 *recommendations to the board regarding the regulation of a*
23 *dispensing opticians pursuant to Chapter 5.5 (commencing with*
24 *Section 2550). The committee shall consist of five members, two*
25 *of whom shall be registered dispensing opticians, two of whom*
26 *shall be public members, and one of whom shall be a member of*
27 *the board. Initial appointments to the committee shall be made by*
28 *the board. The board shall stagger the terms of the initial members*
29 *appointed. The filling of vacancies on the committee shall be made*
30 *by the board upon recommendations by the committee.*

31 (b) *The committee shall be responsible for:*

32 (1) *Recommending registration standards and criteria for the*
33 *registration of dispensing opticians.*

34 (2) *Reviewing of the disciplinary guidelines relating to*
35 *registered dispensing opticians.*

36 (3) *Recommending to the board changes or additions to*
37 *regulations adopted pursuant to Chapter 5.5 (commencing with*
38 *Section 2550).*

1 (4) Carrying out and implementing all responsibilities and
2 duties imposed upon it pursuant to this chapter or as delegated to
3 it by the board.

4 (c) The committee shall meet at least twice a year and as needed
5 in order to conduct its business.

6 (d) Recommendations by the committee regarding scope of
7 practice or regulatory changes or additions shall be approved,
8 modified, or rejected by the board within 90 days of submission
9 of the recommendation to the board. If the board rejects or
10 significantly modifies the intent or scope of the recommendation,
11 the committee may request that the board provide its reasons in
12 writing for rejecting or significantly modifying the
13 recommendation, which shall be provided by the board within 30
14 days of the request.

15 (e) After the initial appointments by the board pursuant to
16 subdivision (a), the Governor shall appoint the registered
17 dispensing optician members and the public members. The
18 committee shall submit a recommendation to the board regarding
19 which board member should be appointed to serve on the
20 committee, and the board shall appoint the member to serve.
21 Committee members shall serve a term of four years except for
22 the initial staggered terms. A member may be reappointed, but no
23 person shall serve as a member of the committee for more than
24 two consecutive terms.

25 SEC. 15. Section 3021 is added to the Business and Professions
26 Code, to read:

27 3021. The board shall have rulemaking authority with respect
28 to Chapter 5.45 (commencing with Section 2546) and Chapter 5.5
29 (commencing with Section 2550) in accordance with Section 3025.
30 Regulations adopted pursuant to Chapter 5.45 (commencing with
31 Section 2546) and Chapter 5.5 (commencing with Section 2550)
32 by the Medical Board of California prior to the effective date of
33 this section shall continue to be valid, except that any reference
34 to the board or division contained therein shall be construed to
35 mean the State Board of Optometry, unless the context determines
36 otherwise.

37 SEC. 16. Section 3023.1 is added to the Business and
38 Professions Code, to read:

39 3023.1. (a) The nonresident contact lens seller program
40 established under Chapter 5.45 (commencing with Section 2546)

1 *and the registered dispensing optician, spectacle lens dispensing,*
2 *and contact lens dispensing programs established under Chapter*
3 *5.5 (commencing with Section 2550) are hereby transferred from*
4 *the jurisdiction of the Medical Board of California and placed*
5 *under the jurisdiction of the State Board of Optometry.*

6 *(b) All the duties, powers, purposes, responsibilities, and*
7 *jurisdictions of the Medical Board of California under Chapter*
8 *5.45 (commencing with Section 2546) and Chapter 5.5*
9 *(commencing with Section 2550) shall be transferred to the State*
10 *Board of Optometry.*

11 *(c) For the performance of the duties and the exercise of the*
12 *powers vested in the board under Chapter 5.45 (commencing with*
13 *Section 2546) and Chapter 5.5 (commencing with Section 2550),*
14 *the State Board of Optometry shall have possession and control*
15 *of all records, papers, offices, equipment, supplies, or other*
16 *property, real or personal, held for the benefit or use by the*
17 *Medical Board of California.*

18 *SEC. 17. The Legislature finds and declares that Section 1 of*
19 *this act imposes a limitation on the public's right of access to the*
20 *meetings of public bodies or the writings of public officials and*
21 *agencies within the meaning of Section 3 of Article I of the*
22 *California Constitution. Pursuant to that constitutional provision,*
23 *the Legislature makes the following findings to demonstrate the*
24 *interest protected by this limitation and the need for protecting*
25 *that interest:*

26 *In order to allow the State Board of Optometry and the*
27 *Department of Managed Health Care to fully accomplish its goals,*
28 *it is imperative to protect the interests of those persons submitting*
29 *information to those departments to ensure that any personal or*
30 *sensitive business information that this act requires those persons*
31 *to submit is protected as confidential information.*

32 *SEC. 18. No reimbursement is required by this act pursuant*
33 *to Section 6 of Article XIII B of the California Constitution because*
34 *the only costs that may be incurred by a local agency or school*
35 *district will be incurred because this act creates a new crime or*
36 *infraction, eliminates a crime or infraction, or changes the penalty*
37 *for a crime or infraction, within the meaning of Section 17556 of*
38 *the Government Code, or changes the definition of a crime within*
39 *the meaning of Section 6 of Article XIII B of the California*
40 *Constitution.*

1 SECTION 1.— Section 655 of the Business and Professions Code
2 is repealed.

3 SEC. 2.— Section 655 is added to the Business and Professions
4 Code, to read:

5 655. Notwithstanding any other law:

6 (a) ~~No optometrist licensed under Chapter 7 (commencing with~~
7 ~~Section 3000) may have any membership, proprietary interest,~~
8 ~~coownership, or any profit-sharing arrangement, either by stock~~
9 ~~ownership, interlocking directors, trusteeship, mortgage, or trust~~
10 ~~deed, with any registered dispensing optician, as described in~~
11 ~~Chapter 5.5 (commencing with Section 2550), or any person who~~
12 ~~is engaged in the manufacture, sale, or distribution to physicians~~
13 ~~and surgeons, optometrists, or registered dispensing opticians of~~
14 ~~lenses, frames, optical supplies, optometric appliances or devices~~
15 ~~or kindred products, except as otherwise permitted under this~~
16 ~~section.~~

17 (b) ~~A registered dispensing optician may operate, own, or have~~
18 ~~an ownership interest in a health care service plan licensed pursuant~~
19 ~~to Chapter 2.2 (commencing with Section 1340) of Division 2 of~~
20 ~~the Health and Safety Code and may directly or indirectly provide~~
21 ~~products and services to the health care service plan or its~~
22 ~~contracted providers and enrollees if the health care service plan~~
23 ~~has a current and active license with the Department of Managed~~
24 ~~Health Care and is in compliance with all laws and regulations~~
25 ~~applicable to the health care service plan. Any complaints received~~
26 ~~by the Department of Managed Health Care related to the services~~
27 ~~provided by an optometrist or any findings by the Department of~~
28 ~~Managed Health Care that reflect substandard care or a potential~~
29 ~~violation of the Optometry Practice Act (Chapter 7 (commencing~~
30 ~~with Section 3000)) by an optometrist shall be forwarded to the~~
31 ~~State Board of Optometry.~~

32 (c) ~~An optometrist, a registered dispensing optician, and a health~~
33 ~~care service plan may execute a lease or other written agreement~~
34 ~~giving rise to a direct or indirect landlord-tenant relationship if all~~
35 ~~of the following conditions are contained in a written agreement~~
36 ~~establishing the landlord-tenant relationship:~~

37 (1) ~~The optometry practice shall be owned by the optometrist~~
38 ~~and in every aspect be under the optometrist’s exclusive control,~~
39 ~~including, but not limited to, the selection and supervision of~~
40 ~~optometric staff, the scheduling of patients, the amount of time~~

1 the optometrist spends with patients, fees charged for optometric
2 products and services, the examination procedures and treatment
3 provided to patients, and the optometrist's contracting with health
4 care service plans. This paragraph shall not preclude a lease from
5 including commercially reasonable terms that do any of the
6 following:

7 (A) Require the provision of optometric services at the premises
8 during certain days and hours.

9 (B) Restrict the use of the premises for the sale or offer for sale
10 of spectacles, frames, lenses, contact lenses, or other ophthalmic
11 products, except that the optometrist shall be permitted to sell
12 therapeutic ophthalmic products if the landlord does not offer any
13 substantially similar therapeutic ophthalmic products for sale.

14 (C) Enter the optometrist into an agreement with a health care
15 service plan or health insurer.

16 (D) Permit the landlord to directly or indirectly provide
17 furnishings and equipment in the leased space.

18 (2) The patient records shall be the sole property of the
19 optometrist. Only the optometrist and those persons who have been
20 authorized, in writing, by the optometrist shall have access to the
21 patient records and the examination room, except as otherwise
22 provided by law.

23 (3) The optometrist's leased space shall be definite and distinct
24 from the space occupied by the other occupants of the premises,
25 have a sign designating that the leased space is occupied by an
26 independent optometrist or optometrists, and be accessible to the
27 optometrist after hours or in the case of an emergency, subject to
28 the facility's general accessibility. This paragraph shall not require
29 a separate entrance to the optometrist's leased space.

30 (4) All signs, advertising, and displays shall be separate and
31 distinct from that of the other occupants and shall have the
32 optometrist's name and the word "optometrist" prominently
33 displayed in connection therewith. This paragraph shall not prohibit
34 optometrists or registered dispensing opticians, individually or
35 jointly, from advertising their practice locations in the leased
36 premises, their participation in any health care service plan's
37 network, or the health care service plan's products in which they
38 participate.

- 1 ~~(5) There shall be no signs displayed on any part of the premises~~
2 ~~or in any advertising indicating that the optometrist is employed~~
3 ~~or controlled by the landlord.~~
- 4 ~~(6) Except for a statement that an independent Doctor of~~
5 ~~Optometry is located on the premises and in-store pricing signs,~~
6 ~~as permitted by this subdivision, the landlord shall not link its~~
7 ~~advertising with the optometrist's name, practice, or fees.~~
- 8 ~~(7) The optometrist shall not be precluded from collecting fees~~
9 ~~for services that are not included in a health care service plan's~~
10 ~~products and services contained in the health care service plan's~~
11 ~~provider agreement with the optometrist, subject to any disclosure~~
12 ~~requirements to the patients and enrollees.~~
- 13 ~~(8) The term of the lease shall be no less than one year and shall~~
14 ~~not require the optometrist to contract exclusively with a health~~
15 ~~care service plan. The optometrist may terminate the lease~~
16 ~~according to the terms of the lease. The landlord may terminate~~
17 ~~the lease for any of the following reasons:~~
- 18 ~~(A) The imposition of restrictions, suspension, or revocation of~~
19 ~~the optometrist's license or if the optometrist is or becomes~~
20 ~~ineligible to participate in state or federal government-funded~~
21 ~~programs.~~
- 22 ~~(B) The termination of any underlying lease where the~~
23 ~~optometrist has subleased space, or the optometrist's failure to~~
24 ~~comply with the underlying lease provisions that are made~~
25 ~~applicable to the optometrist.~~
- 26 ~~(C) Other reasons pursuant to the terms of the lease or permitted~~
27 ~~under the Civil Code, unrelated to the practice of optometry or the~~
28 ~~sale of optical goods, except as otherwise provide by this section.~~
- 29 ~~(9) The landlord shall act in good faith in terminating the lease,~~
30 ~~and in no case shall the landlord terminate the lease for reasons~~
31 ~~that constitute interference with the practice of optometry.~~
- 32 ~~(10) The lease or lease terms and payments shall not be based~~
33 ~~on the number of eye exams performed, prescriptions written,~~
34 ~~patient referrals, or the sale or promotion of the products of a~~
35 ~~registered dispensing optician or an optical company.~~
- 36 ~~(11) The landlord shall not terminate the lease solely because~~
37 ~~of a report, complaint, or allegation filed by the optometrist against~~
38 ~~the landlord, a registered dispensing optician, or a health care~~
39 ~~service plan to the State Board of Optometry, the Medical Board~~

1 of California, the Department of Managed Health Care, or any law
2 enforcement or regulatory agency.

3 ~~(12) The landlord shall not interfere with an outgoing
4 optometrist's efforts to inform the optometrist's patients, in
5 accordance with customary practice and professional obligations,
6 of the relocation of the optometrist's practice.~~

7 ~~(13) The State Board of Optometry, the Medical Board of
8 California, or the Department of Managed Health Care may inspect,
9 upon request, an individual lease agreement pursuant to its
10 investigation authority, and if such a request is made, the landlord
11 or tenant, as applicable, shall promptly comply with the request.
12 Failure or refusal to comply with the request for a lease agreement
13 within 30 days of receiving the request shall constitute
14 unprofessional conduct, grounds for disciplinary action by the
15 appropriate regulatory agency and a violation of the Optometry
16 Practice Act and the Knox-Keene Health Care Service Plan Act
17 of 1975, as applicable. Only personal information as defined in
18 Section 1798.3 of the Civil Code may be redacted prior to dispatch
19 of the lease or agreement.~~

20 ~~(d) No registered dispensing optician may have any membership,
21 proprietary interest, coownership, or profit-sharing arrangement
22 either by stock ownership, interlocking directors, trusteeship,
23 mortgage, or trust deed, with an optometrist, except as permitted
24 under this section.~~

25 ~~(e) Any violation of this section constitutes a misdemeanor as
26 to such person licensed as an optometrist under Chapter 7
27 (commencing with Section 3000) and as to any and all persons,
28 whether or not so licensed under this division, who participate
29 with an optometrist in a violation of any provision of this section.~~

30 ~~SEC. 3. Section 2546.2 of the Business and Professions Code
31 is amended to read:~~

32 ~~2546.2. (a) All references in this chapter to the division shall
33 mean the State Board of Optometry.~~

34 ~~(b) Unless contrary to the provisions of this chapter, regulations
35 adopted by the Medical Board of California shall continue to apply
36 to nonresident contact lens sellers until other regulations are
37 adopted by the State Board of Optometry. All references in those
38 regulations to "board" shall mean the State Board of Optometry,
39 which shall solely enforce the regulations with respect to
40 nonresident contact lens sellers.~~

1 ~~SEC. 4.— Section 2546.9 of the Business and Professions Code~~
2 ~~is amended to read:~~

3 ~~2546.9.— The amount of fees prescribed in connection with the~~
4 ~~registration of nonresident contact lens sellers is that established~~
5 ~~by the following schedule:~~

6 ~~(a) The initial registration fee shall be one hundred dollars~~
7 ~~(\$100).~~

8 ~~(b) The renewal fee shall be one hundred dollars (\$100).~~

9 ~~(c) The delinquency fee shall be twenty-five dollars (\$25).~~

10 ~~(d) The fee for replacement of a lost, stolen, or destroyed~~
11 ~~registration shall be twenty-five dollars (\$25).~~

12 ~~(e) The fees collected pursuant to this chapter shall be deposited~~
13 ~~in the Dispensing Opticians Fund, and shall be available, upon~~
14 ~~appropriation, to the State Board of Optometry for the purposes~~
15 ~~of this chapter.~~

16 ~~SEC. 5.— Section 2550.1 of the Business and Professions Code~~
17 ~~is amended to read:~~

18 ~~2550.1.— (a) All references in this chapter to the board or the~~
19 ~~Board of Medical Examiners or division shall mean the State Board~~
20 ~~of Optometry.~~

21 ~~(b) Unless contrary to the provisions of this chapter, regulations~~
22 ~~adopted by the Medical Board of California shall continue to apply~~
23 ~~to registered dispensing opticians until other regulations are~~
24 ~~adopted by the State Board of Optometry. All references in those~~
25 ~~regulations to “board” shall mean the State Board of Optometry,~~
26 ~~which shall solely enforce the regulations with respect to registered~~
27 ~~dispensing opticians.~~

28 ~~SEC. 6.— Section 2556 of the Business and Professions Code is~~
29 ~~amended to read:~~

30 ~~2556.— (a) Except as authorized by Section 655, it is unlawful~~
31 ~~for a registered dispensing optician to do any of the following: to~~
32 ~~advertise the furnishing of, or to furnish, the services of an~~
33 ~~optometrist or a physician and surgeon, to directly employ an~~
34 ~~optometrist or physician and surgeon for the purpose of any~~
35 ~~examination or treatment of the eyes, or to duplicate or change~~
36 ~~lenses without a prescription or order from a person duly licensed~~
37 ~~to issue the same. For the purposes of this section, “furnish” does~~
38 ~~not mean to enter into a landlord-tenant relationship of any kind.~~

39 ~~(b) Notwithstanding Section 125.9, the board may, by regulation,~~
40 ~~impose and issue administrative fines and citations for a violation~~

1 of this section or Section 655, which may be assessed in addition
2 to any other applicable fines, citations, or administrative or criminal
3 actions:

4 SEC. 7. Section 2556.1 is added to the Business and Professions
5 Code, to read:

6 2556.1. The board shall have the authority to inspect any
7 premises at which the business of a registered dispensing optician
8 is co-located with the practice of an optometrist for the purposes
9 of determining compliance with Section 655. The inspection may
10 include the review of any written lease agreement between the
11 registered dispensing optician and the optometrist. Failure to
12 comply with the inspection or any request for information by the
13 board may subject the party to disciplinary action. The board shall
14 provide a copy of its inspection results, if applicable, to the
15 optician, optometrist, and the Department of Managed Health Care.

16 SEC. 8. Section 2556.2 is added to the Business and Professions
17 Code, to read:

18 2556.2. (a) Notwithstanding any other law and except as
19 provided in Section 655, any individual, corporation, or firm
20 operating as a registered dispensing optician under this chapter
21 before the effective date of this section, or an employee of such
22 an entity, shall not be subject to any action for engaging in conduct
23 prohibited by Section 2556 as it read prior to the effective date of
24 the act adding this section, except that a registrant shall be subject
25 to discipline for duplicating or changing lenses without a
26 prescription or order from a person duly licensed to issue the same.

27 (b) Nothing in this section shall be construed to imply or suggest
28 that a person registered under this chapter is in violation of or in
29 compliance with the law.

30 (c) This section shall not apply to any business relationships
31 prohibited by Section 2556 registered and operating on or after
32 the effective date of this section.

33 (d) Nothing in this section shall prohibit an individual,
34 corporation, or firm operating as a registered dispensing optician
35 from engaging in a business relationship with an optometrist
36 licensed pursuant to Chapter 7 (commencing with Section 3000)
37 before the effective date of this section at locations registered with
38 the Medical Board of California before the effective date of this
39 section.

1 ~~(e) This section shall remain in effect only until January 1, 2019,~~
2 ~~and as of that date is repealed, unless a later enacted statute, that~~
3 ~~is enacted before January 1, 2019, deletes or extends that date.~~

4 ~~SEC. 9. Section 2567 of the Business and Professions Code is~~
5 ~~amended to read:~~

6 ~~2567. (a) The provisions of Article 19 (commencing with~~
7 ~~Section 2420) and Article 20 (commencing with Section 2435) of~~
8 ~~Chapter 5 which are not inconsistent or in conflict with this chapter~~
9 ~~apply to the issuance and govern the expiration and renewal of~~
10 ~~certificates issued under this chapter. All fees collected from~~
11 ~~persons registered or seeking registration under this chapter shall~~
12 ~~be paid into the Dispensing Opticians Fund, and shall be available,~~
13 ~~upon appropriation, to the State Board of Optometry for the~~
14 ~~purposes of this chapter.~~

15 ~~(b) The board may employ, subject to civil service regulations,~~
16 ~~whatever additional clerical assistance is necessary for the~~
17 ~~administration of this chapter.~~

18 ~~SEC. 10. Section 3010.5 of the Business and Professions Code~~
19 ~~is amended to read:~~

20 ~~3010.5. (a) There is in the Department of Consumer Affairs~~
21 ~~a State Board of Optometry in which the enforcement of this~~
22 ~~chapter is vested. The board consists of 11 members, five of whom~~
23 ~~shall be public members and one of whom shall be a registered~~
24 ~~dispensing optician. The registered dispensing optician shall be~~
25 ~~registered pursuant to Chapter 5.5 (commencing with Section~~
26 ~~2550) and in good standing with the board.~~

27 ~~Six members of the board shall constitute a quorum.~~

28 ~~(b) The board shall, with respect to conducting investigations,~~
29 ~~inquiries, and disciplinary actions and proceedings, have the~~
30 ~~authority previously vested in the board as created pursuant to~~
31 ~~former Section 3010. The board may enforce any disciplinary~~
32 ~~actions undertaken by that board.~~

33 ~~(c) This section shall remain in effect only until January 1, 2018,~~
34 ~~and as of that date is repealed, unless a later enacted statute, that~~
35 ~~is enacted before January 1, 2018, deletes or extends that date.~~
36 ~~Notwithstanding any other law, the repeal of this section renders~~
37 ~~the board subject to review by the appropriate policy committees~~
38 ~~of the Legislature.~~

39 ~~SEC. 11. Section 3011 of the Business and Professions Code~~
40 ~~is amended to read:~~

1 ~~3011. Members of the board, except the public members and~~
2 ~~the registered dispensing optician member, shall be appointed only~~
3 ~~from persons who are registered optometrists of the State of~~
4 ~~California and actually engaged in the practice of optometry at the~~
5 ~~time of appointment or who are members of the faculty of a school~~
6 ~~of optometry. The public members shall not be a licentiate of the~~
7 ~~board or of any other board under this division or of any board~~
8 ~~referred to in Sections 1000 and 3600.~~

9 ~~No person except the registered dispensing optician member,~~
10 ~~including the public members, shall be eligible to membership in~~
11 ~~the board who is a stockholder in or owner of or a member of the~~
12 ~~board of trustees of any school of optometry or who shall be~~
13 ~~financially interested, directly or indirectly, in any concern~~
14 ~~manufacturing or dealing in optical supplies at wholesale.~~

15 ~~No person shall serve as a member of the board for more than~~
16 ~~two consecutive terms.~~

17 ~~A member of the faculty of a school of optometry may be~~
18 ~~appointed to the board; however, no more than two faculty~~
19 ~~members of schools of optometry may be on the board at any one~~
20 ~~time. Faculty members of the board shall not serve as public~~
21 ~~members.~~

22 ~~SEC. 12. Section 3013 of the Business and Professions Code~~
23 ~~is amended to read:~~

24 ~~3013. (a) Each member of the board shall hold office for a~~
25 ~~term of four years, and shall serve until the appointment and~~
26 ~~qualification of his or her successor or until one year shall have~~
27 ~~elapsed since the expiration of the term for which he or she was~~
28 ~~appointed, whichever first occurs.~~

29 ~~(b) Vacancies occurring shall be filled by appointment for the~~
30 ~~unexpired term.~~

31 ~~(c) The Governor shall appoint three of the public members,~~
32 ~~five members qualified as provided in Section 3011, and the~~
33 ~~registered dispensing optician member as provided in Section~~
34 ~~3010.5. The Senate Committee on Rules and the Speaker of the~~
35 ~~Assembly shall each appoint a public member.~~

36 ~~(d) No board member serving between January 1, 2000, and~~
37 ~~June 1, 2002, inclusive, shall be eligible for reappointment.~~

38 ~~(e) For initial appointments made on or after January 1, 2003,~~
39 ~~one of the public members appointed by the Governor and two of~~
40 ~~the professional members shall serve terms of one year. One of~~

1 the public members appointed by the Governor and two of the
 2 professional members shall serve terms of three years. The
 3 remaining public member appointed by the Governor and the
 4 remaining two professional members shall serve terms of four
 5 years. The public members appointed by the Senate Committee
 6 on Rules and the Speaker of the Assembly shall each serve for a
 7 term of four years.

8 SEC. 13. Section 3020 is added to the Business and Professions
 9 Code, to read:

10 3020. (a) There shall be established within the State Board of
 11 Optometry a Registered Dispensing Optician Committee to oversee
 12 the registration and enforcement of registered dispensing opticians
 13 as described in Chapter 5.5 (commencing with Section 2550).

14 (b) The committee shall be responsible for all of the following:

15 (1) Oversight of and setting criteria for all applications for
 16 dispensing opticians.

17 (2) Investigating all enforcement matters relating to a dispensing
 18 optician.

19 (3) Investigating any complaint against a dispensing optician
 20 provided to the committee by the board.

21 (4) Determining and enforcing penalties, including fines,
 22 suspensions, and revocations.

23 (5) Carrying out and implementing all responsibilities and duties
 24 imposed upon it pursuant to this chapter.

25 (c) The committee shall meet as needed.

26 SEC. 14. No reimbursement is required by this act pursuant to
 27 Section 6 of Article XIII B of the California Constitution because
 28 the only costs that may be incurred by a local agency or school
 29 district will be incurred because this act creates a new crime or
 30 infraction, eliminates a crime or infraction, or changes the penalty
 31 for a crime or infraction, within the meaning of Section 17556 of
 32 the Government Code, or changes the definition of a crime within
 33 the meaning of Section 6 of Article XIII B of the California
 34 Constitution.

35 SEC. 15. This act is an urgency statute necessary for the
 36 immediate preservation of the public peace, health, or safety within
 37 the meaning of Article IV of the Constitution and shall go into
 38 immediate effect. The facts constituting the necessity are:

39 In order to, as soon as possible, protect various businesses,
 40 registered dispensing opticians, and optometrists who engage in

1 a business relationship that is prohibited by Section 655 of the
2 Business and Professions Code, as amended by Chapter 975 of
3 the Statutes of 1979, or Section 2556 of the Business and
4 Professions Code, as amended by Chapter 653 of the Statutes of
5 1979, of the Business and Professions Code from discipline by the
6 Medical Board of California, the State Board of Optometry, or any
7 other state agency with enforcement authority while those entities
8 transition to a model that will allow California businesses to
9 provide health services to patients and also protect the interests of
10 healing arts practitioners, it is necessary that this act take effect
11 immediately.

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