



ISSUE MEMORANDUM

DATE	March 17, 2023
TO	Board Members, California State Board of Optometry (CSBO)
FROM	Gregory Pruden, Interim Executive Officer
SUBJECT	Agenda Item #7 – Discussion and Possible Action on Legislation

Background and Update

The Legislature reconvened on January 4, 2023, and bills were introduced until the introduction deadline of February 17, 2023. The 2023 Legislative Calendar, along with a copy of the Board's legislative positions taken from the CSBO Board Member Handbook, are included below for your reference. Staff expects legislation should be better identified for the next Legislative and Regulation Committee meeting in April, with the Board taking positions at the May Board meeting.

Recent and Upcoming Legislative Calendar Highlights

January 1	Statutes Take Effect
January 4	Legislature Reconvenes
January 10	Budget Released by Governor
January 20	Last Day to Submit Bill Requests
February 17	Last Day to Introduce Bills
March 30	Spring Recess Begins
April 10	Reconvene from Spring Recess
June 2	Last Day for Bills to be Passed Out of the House of Origin

CSBO Positions on Legislation

As a regulatory body, the Board can propose its own legislative proposals or take a position on a current piece of legislation. At Board Meetings, staff may present current legislation that is of potential interest to the Board and/or which may directly impact the Board and the practice of optometry. When the Board attains research on legislation, it can take a position on the matter.

Possible positions include:

- **No Position:** The Board may decide that the bill is outside the Board's jurisdiction or that it has other reasons to not have any position on the bill. The Board would not generally testify on such a bill.
- **Neutral:** If a bill poses no problems or concerns to the Board, the Board may choose to adopt a neutral position.
- **Neutral if Amended:** The Board may take this position if there are minor problems with the bill but, providing they are amended, the intent of the legislation does not impede with Board processes.
- **Support:** This position may be taken if the Board supports the legislation and has no recommended changes.
- **Support if Amended:** This position may be taken if the Board has amendments and if accepted, the Board will support the legislation.
- **Oppose:** The Board may opt to oppose a bill if it negatively impacts consumers or is against the Board's own objectives.
- **Oppose Unless Amended:** The Board may take this position unless the objectionable language is removed. This is a more common and substantive stance than Neutral if Amended.

Previous Legislation from 2022:

[Assembly Bill 2574](#) (Salas) Optometry: ophthalmic and optometric assistants

This bill restores statutory authorities that were erroneously removed by AB 407 (Salas, Chapter 652, Statutes of 2021). It authorizes an optometrist to independently initiate immunizations if they are immunization certified, and to diagnose and stabilize patients with acute angle closure glaucoma. It also clarifies that optometry or ophthalmology assistants may perform preliminary subjective refraction procedures as part of their training. The intent of this bill is to clean-up and clarify statutory authorities within the Optometry Practice Act.

This bill was signed by the Governor and took effect on January 1, 2023.

[Assembly Bill 2236](#) (Low) Optometry: certification to perform advanced procedures

Would have created a new certificate type that allows optometrists to perform three advanced laser surgical procedures, excision, or drainage of nonrecurrent lesions of the adnexa, injections for treatment of chalazia and to administer anesthesia, and corneal crosslinking procedures after meeting specified training, passing an examination, and completing education requirements that the California State Board of Optometry must develop. It also would have required optometrists to report any adverse treatment outcomes to the Board and would have required the Board to review these reports in a timely manner.

This bill was vetoed by the Governor.

Veto Message:

To the Members of the California State Assembly:

I am returning Assembly Bill 2236 without my signature.

This bill would authorize optometrists to perform ocular surgical procedures currently performed by ophthalmologists after completing specified education and training.

I am not convinced that the education and training required is sufficient to prepare optometrists to perform the surgical procedures identified. This bill would allow optometrists to perform advanced surgical procedures with less than one year of training. In comparison, physicians who perform these procedures must complete at least a three year residency program.

For this reason, I cannot sign this bill.

Sincerely,

Gavin Newsom

Discussion and Possible Action on 2023 Bills Applicable to Optometry

Staff requests discussion and referral of the following bills to the Legislation and Regulation Committee for further research and analysis:

A. [AB 1369 \(Bauer-Kahan\) Healing arts licensees](#)

As introduced.

This bill is a non-substantive spot bill, meaning it makes no substantive changes to current law.

B. [AB 1570 \(Low\) Optometry: certification to perform advanced procedures](#)

As introduced.

This bill is a reintroduction of 2022's AB 2236 Optometry: certification to perform advanced procedures, which was passed by the Legislature but vetoed by Governor Newsom. As introduced, AB 1570 is substantially similar to AB 2236.

C. [SB 340 \(Eggman\) Medi-Cal: eyeglasses: Prison Industry Authority](#)

As introduced.

This bill, for purposes of Medi-Cal reimbursement for covered optometric services, would authorize a provider to obtain eyeglasses from a private entity, as an alternative to a purchase of eyeglasses from the Prison Industry Authority. The bill would condition implementation of this provision on the availability of federal financial participation

D. [SB 819 \(Eggman\) Medi-Cal: certification](#)

As introduced.

This bill is a non-substantive spot bill, meaning it makes no substantive changes to current law.

2023 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE AND THE OFFICE OF THE ASSEMBLY CHIEF CLERK
Revised 11/4/2022

DEADLINES

JANUARY						
S	M	T	W	TH	F	S
<u>1</u>	2	3	<u>4</u>	5	6	7
8	9	<u>10</u>	11	12	13	14
15	<u>16</u>	17	18	19	<u>20</u>	21
22	23	24	25	26	27	28
29	30	31				

- [Jan. 1](#) Statutes take effect (Art. IV, Sec. 8(c)).
- [Jan. 4](#) Legislature **reconvenes** (J.R. 51(a)(1)).
- [Jan. 10](#) Budget must be submitted by Governor (Art. IV, Sec. 12(a)).
- [Jan. 16](#) Martin Luther King, Jr. Day
- [Jan. 20](#) Last day to submit **bill requests** to the Office of Legislative Counsel

FEBRUARY						
S	M	T	W	TH	F	S
			1	2	3	4
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12	13	14	15	16	<u>17</u>	18
19	<u>20</u>	21	22	23	24	25
26	27	28				

- [Feb. 17](#) Last day for bills to **be introduced** (J.R. 61(a),(1)(J.R. 54(a)).
- [Feb. 20](#) Presidents' Day.

MARCH						
S	M	T	W	TH	F	S
			1	2	3	4
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12	13	14	15	16	17	18
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26	27	28	29	<u>30</u>	<u>31</u>	

- [Mar. 30](#) **Spring recess** begins upon adjournment of this day's session (J.R. 51(a)(2)).
- [Mar. 31](#) Cesar Chavez Day.

APRIL						
S	M	T	W	TH	F	S
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9	<u>10</u>	11	12	13	14	15
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23	24	25	26	27	<u>28</u>	29
30						

- [Apr. 10](#) Legislature reconvenes from **Spring recess** (J.R. 51(a)(2)).
- [Apr. 28](#) Last day for **policy committees** to hear and report to **fiscal committees** **fiscal bills** introduced in their house (J.R. 61(a)(2)).

MAY						
S	M	T	W	TH	F	S
	1	2	3	4	<u>5</u>	6
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14	15	16	17	18	<u>19</u>	20
21	22	23	24	25	26	27
28	<u>29</u>	<u>30</u>	<u>31</u>			

- [May 5](#) Last day for **policy committees** to hear and report to the floor **non-fiscal bills** introduced in their house (J.R. 61(a)(3))
- [May 12](#) Last day for **policy committees** to meet prior to June 5 (J.R. 61(a)(4)).
- [May 19](#) Last day for **fiscal committees** to hear and report to the Floor bills introduced in their house (J.R. 61(a)(5)).

Last day for **fiscal committees** to meet prior to June 5 (J.R. 61(a)(6)).
- [May 29](#) Memorial Day.
- [May 30-June 2](#) **Floor Session Only.** No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(7)).

*Holiday schedule subject to Senate Rules committee approval

2023 TENTATIVE LEGISLATIVE CALENDAR

COMPILED BY THE OFFICE OF THE SECRETARY OF THE SENATE AND THE OFFICE OF THE ASSEMBLY CHIEF CLERK
Revised 11/4/2022

JUNE						
S	M	T	W	TH	F	S
				<u>1</u>	<u>2</u>	3
4	<u>5</u>	6	7	8	9	10
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June 2 Last day for each house to pass bills introduced in that house (J.R. 61(a)(8)).

June 5 Committee meetings may resume (J.R. 61(a)(9)).

June 15 Budget must be passed by **midnight** (Art. IV, Sec. 12(c)(3)).

JULY						
S	M	T	W	TH	F	S
						1
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23	24	25	26	27	28	29
30	31					

July 4 Independence Day.

July 14 Last day for **policy committees** to meet and report bills (J.R. 61(a)(10)).

Summer Recess begins upon adjournment of session provided Budget Bill has been passed (J.R. 51(a)(3)).

AUGUST						
S	M	T	W	TH	F	S
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27	28	29	30	31		

Aug. 14 Legislature reconvenes from **Summer Recess** (J.R. 51(a)(3)).

SEPTEMBER						
S	M	T	W	TH	F	S
					<u>1</u>	2
3	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>	9
10	<u>11</u>	<u>12</u>	<u>13</u>	<u>14</u>	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Sept. 1 Last day for **fiscal committees** to meet and report bills to Floor (J.R. 61(a)(11)).

Sept. 4 Labor Day.

Sept. 5-14 **Floor session only.** No committees, other than conference or Rules committees, may meet for any purpose (J.R. 61(a)(12)).

Sept. 8 Last day to **amend** on the floor (J.R. 61(a)(13)).

Sept. 14 Last day for **each house to pass bills** (J.R. 61(a)(14)).
Interim Study Recess begins at the end of this day's session (J.R. 51(a)(4)).

*Holiday schedule subject to Senate Rules committee approval

IMPORTANT DATES OCCURRING DURING INTERIM STUDY RECESS

2023

Oct. 14

Last day for Governor to sign or veto bills passed by the Legislature on or before Sept. 14 and in his possession after Sept. 14 (Art. IV, Sec.10(b)(1)).

2024

Jan. 1

Statutes take effect (Art. IV, Sec. 8(c)).

Jan. 3

Legislature reconvenes (J.R. 51(a)(4)).

ASSEMBLY BILL

No. 1369

Introduced by Assembly Member Bauer-Kahan

February 17, 2023

An act to amend Section 683 of the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1369, as introduced, Bauer-Kahan. Healing arts licensees.

Existing law relating to health care practitioners requires a board, as defined, to report to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive by the licensee, or placed in another category that prohibits the licensee from practicing the licensee's profession, to prevent reimbursement by the state for Medi-Cal and Denti-Cal services provided after the cancellation of a provider's professional license.

This bill would make nonsubstantive changes to that reporting provision.

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

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

- 1 SECTION 1. Section 683 of the Business and Professions Code
- 2 is amended to read:
- 3 683. (a) A board shall report, within 10 working days, to the
- 4 State Department of Health Care Services the name and license
- 5 number of a person whose license has been revoked, suspended,

1 surrendered, made inactive by the licensee, or placed in another
2 category that prohibits the licensee from practicing their profession.
3 The purpose of the reporting requirement is to prevent
4 reimbursement by the state for Medi-Cal and Denti-Cal services
5 provided after the cancellation of a provider’s professional license.

6 (b) “Board,” as used in this section, means the Dental Board of
7 California, the Medical Board of California, the Board of
8 Psychology, the California State Board of Optometry, the
9 California State Board of Pharmacy, the Osteopathic Medical
10 Board of California, the State Board of Chiropractic Examiners,
11 the Board of Behavioral Sciences, the ~~California Podiatric Medical~~
12 ~~Board of Podiatric Medicine, California,~~ and the California Board
13 of Occupational Therapy.

14 (c) This section shall become operative on January 1, 2015.

Introduced by Assembly Member Low

February 17, 2023

An act to amend Section 3041 of, and to add Section 3041.4 to, the Business and Professions Code, relating to healing arts.

legislative counsel's digest

AB 1570, as introduced, Low. Optometry: certification to perform advanced procedures.

Existing law, the Optometry Practice Act, establishes the State Board of Optometry in the Department of Consumer Affairs for the licensure and regulation of the practice of optometry. Existing law makes a violation of the act a misdemeanor. Existing law excludes certain classes of agents from the practice of optometry unless they have an explicit United States Food and Drug Administration-approved indication, as specified.

This bill would add neuromuscular blockers to the list of excluded classes of agents. By expanding the scope of a crime, the bill would impose a state-mandated local program.

Existing law requires an optometrist who holds a therapeutic pharmaceutical agents certification and meets specified requirements to be certified to medically treat authorized glaucomas.

This bill would authorize an optometrist certified to treat glaucoma to obtain certification to perform specified advanced procedures if the optometrist meets certain education, training, examination, and other requirements, as specified. By requiring optometrists, qualified educators, and course administrators to certify or attest specified information relating to advanced procedure competency, thus expanding

the crime of perjury, the bill would impose a state-mandated local program. The bill would require the board to set a fee for the issuance and renewal of the certificate authorizing the use of advanced procedures, which would be deposited in the Optometry Fund. The bill would require an optometrist who performs advanced procedures pursuant to these provisions to report certain information to the board, including any adverse treatment outcomes that required a referral to or consultation with another health care provider. The bill would require the board to compile a report summarizing the data collected and make the report available on the board's internet website.

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 3041 of the Business and Professions
- 2 Code is amended to read:
- 3 3041. (a) The practice of optometry includes the diagnosis,
- 4 prevention, treatment, and management of disorders and
- 5 dysfunctions of the visual system, as authorized by this chapter,
- 6 as well as the provision of habilitative or rehabilitative optometric
- 7 services, and is the doing of any or all of the following:
- 8 (1) The examination of the human eyes and their adnexa,
- 9 including through the use of all topical and oral diagnostic
- 10 pharmaceutical agents that are not controlled substances, and the
- 11 analysis of the human vision system, either subjectively or
- 12 objectively.
- 13 (2) The determination of the powers or range of human vision
- 14 and the accommodative and refractive states of the human eyes,
- 15 including the scope of their functions and general condition.
- 16 (3) The prescribing, using, or directing the use of any optical
- 17 device in connection with ocular exercises, visual training, vision
- 18 training, or orthoptics.
- 19 (4) The prescribing, fitting, or adaptation of contact and
- 20 spectacle lenses to, the human eyes, including lenses that may be

1 classified as drugs or devices by any law of the United States or
2 of this state, and diagnostic or therapeutic contact lenses that
3 incorporate a medication or therapy the optometrist is certified to
4 prescribe or provide.

5 (5) For an optometrist certified pursuant to Section 3041.3,
6 diagnosing and preventing conditions and diseases of the human
7 eyes and their adnexa, and treating nonmalignant conditions and
8 diseases of the anterior segment of the human eyes and their
9 adnexa, including ametropia and presbyopia:

10 (A) Using or prescribing, including for rational off-label
11 purposes, topical and oral prescription and nonprescription
12 therapeutic pharmaceutical agents that are not controlled substances
13 and are not antiglaucoma agents or limited or excluded by
14 subdivision (b). For purposes of this section, “controlled substance”
15 has the same meaning as used in the California Uniform Controlled
16 Substances Act (Division 10 (commencing with Section 11000)
17 of the Health and Safety Code) and the United States Uniform
18 Controlled Substances Act (21 U.S.C. Sec. 801 et seq.).

19 (B) Prescribing the oral analgesic controlled substance codeine
20 with compounds, hydrocodone with compounds, and tramadol as
21 listed in the California Uniform Controlled Substances Act
22 (Division 10 (commencing with Section 11000) of the Health and
23 Safety Code) and the United States Uniform Controlled Substances
24 Act (21 U.S.C. Sec. 801 et seq.), limited to three days, with referral
25 to an ophthalmologist if the pain persists.

26 (C) If also certified under subdivision (c), using or prescribing
27 topical and oral antiglaucoma agents for the medical treatment of
28 all primary open-angle, exfoliation, pigmentary, and
29 steroid-induced glaucomas in persons 18 years of age or over. In
30 the case of steroid-induced glaucoma, the prescriber of the steroid
31 medication shall be promptly notified if the prescriber did not refer
32 the patient to the optometrist for treatment.

33 (D) If also certified under subdivision (d), independent initiation
34 and administration of immunizations for influenza, herpes zoster
35 virus, pneumococcus, and SARS-CoV-2 in compliance with
36 individual Advisory Committee on Immunization Practices (ACIP)
37 vaccine recommendations published by the federal Centers for
38 Disease Control and Prevention (CDC) in persons 18 years of age
39 or over.

- 1 (E) Utilizing the following techniques and instrumentation
2 necessary for the diagnosis of conditions and diseases of the eye
3 and adnexa:
- 4 (i) Laboratory tests or examinations ordered from an outside
5 facility.
 - 6 (ii) Laboratory tests or examinations performed in a laboratory
7 with a certificate of waiver under the federal Clinical Laboratory
8 Improvement Amendments of 1988 (CLIA) (*Public Law 100-578*)
9 (42 U.S.C. Sec. ~~263a~~; ~~Public Law 100-578~~, *263a*), which shall
10 also be allowed for:
 - 11 (I) Detecting indicators of possible systemic disease that
12 manifests in the eye for the purpose of facilitating appropriate
13 referral to or consultation with a physician and surgeon.
 - 14 (II) Detecting the presence of SARS-CoV-2 virus.
 - 15 (iii) Skin testing performed in an office to diagnose ocular
16 allergies, limited to the superficial layer of the skin.
 - 17 (iv) X-rays ordered from an outside facility.
 - 18 (v) Other imaging studies ordered from an outside facility
19 subject to prior consultation with an appropriate physician and
20 surgeon.
 - 21 (vi) Other imaging studies performed in an office, including
22 those that utilize laser or ultrasound technology, but excluding
23 those that utilize radiation.
- 24 (F) Performing the following procedures, which are excluded
25 from restrictions imposed on the performance of surgery by
26 paragraph (6) of subdivision (b), unless explicitly indicated:
- 27 (i) Corneal scraping with cultures.
 - 28 (ii) Debridement of corneal epithelium not associated with band
29 keratopathy.
 - 30 (iii) Mechanical epilation.
 - 31 (iv) Collection of blood by skin puncture or venipuncture for
32 laboratory testing authorized by this subdivision.
 - 33 (v) Suture removal subject to comanagement requirements in
34 paragraph (7) of subdivision (b).
 - 35 (vi) Treatment or removal of sebaceous cysts by expression.
 - 36 (vii) Lacrimal punctal occlusion using plugs, or placement of
37 a stent or similar device in a lacrimal canaliculus intended to
38 deliver a medication the optometrist is certified to prescribe or
39 provide.

1 (viii) Foreign body and staining removal from the cornea, eyelid,
2 and conjunctiva with any appropriate instrument. Removal of
3 corneal foreign bodies and any related stain shall, as relevant, be
4 limited to that which is nonperforating, no deeper than the
5 midstroma, and not reasonably anticipated to require surgical
6 repair.

7 (ix) Lacrimal irrigation and dilation in patients 12 years of age
8 or over, excluding probing of the nasolacrimal tract. The board
9 shall certify any optometrist who graduated from an accredited
10 school of optometry before May 1, 2000, to perform this procedure
11 after submitting proof of satisfactory completion of 10 procedures
12 under the supervision of an ophthalmologist as confirmed by the
13 ophthalmologist. Any optometrist who graduated from an
14 accredited school of optometry on or after May 1, 2000, shall be
15 exempt from the certification requirement contained in this
16 paragraph.

17 (x) Administration of oral fluorescein for the purpose of ocular
18 angiography.

19 (xi) Intravenous injection for the purpose of performing ocular
20 angiography at the direction of an ophthalmologist as part of an
21 active treatment plan in a setting where a physician and surgeon
22 is immediately available.

23 (xii) Use of noninvasive devices delivering intense pulsed light
24 therapy or low-level light therapy that do not rely on laser
25 technology, limited to treatment of conditions and diseases of the
26 adnexa.

27 (xiii) Use of an intranasal stimulator in conjunction with
28 treatment of dry eye syndrome.

29 (G) Using additional noninvasive medical devices or technology
30 that:

31 (i) Have received a United States Food and Drug Administration
32 ~~approved~~ *Administration-approved* indication for the diagnosis or
33 treatment of a condition or disease authorized by this chapter. A
34 licensee shall successfully complete any clinical training imposed
35 by a related manufacturer prior to using any of those noninvasive
36 medical devices or technologies.

37 (ii) Have been approved by the board through regulation for the
38 rational treatment of a condition or disease authorized by this
39 chapter. Any regulation under this paragraph shall require a
40 licensee to successfully complete an appropriate amount of clinical

1 training to qualify to use each noninvasive medical device or
2 technology approved by the board pursuant to this paragraph.

3 (b) Exceptions or limitations to the provisions of subdivision
4 (a) are as follows:

5 (1) Treatment of the following is excluded from the practice of
6 optometry in a patient under 18 years of age, unless explicitly
7 allowed otherwise:

8 (A) Anterior segment inflammation, which shall not exclude
9 treatment of:

10 (i) The conjunctiva.

11 (ii) Nonmalignant ocular surface disease, including dry eye
12 syndrome.

13 (iii) Contact lens-related inflammation of the cornea.

14 (iv) An infection of the cornea.

15 (B) Conditions or diseases of the sclera.

16 (2) Use of any oral prescription steroid anti-inflammatory
17 medication for a patient under 18 years of age shall be done
18 pursuant to a documented, timely consultation with an appropriate
19 physician and surgeon.

20 (3) Use of any nonantibiotic oral prescription medication for a
21 patient under five years of age shall be done pursuant to a
22 documented, prior consultation with an appropriate physician and
23 surgeon.

24 (4) The following classes of agents are excluded from the
25 practice of optometry unless they have an explicit United States
26 Food and Drug Administration-approved indication for treatment
27 of a condition or disease authorized under this section:

28 (A) Antiamoebics.

29 (B) Antineoplastics.

30 (C) Coagulation modulators.

31 (D) Hormone modulators.

32 (E) Immunomodulators.

33 (F) *Neuromuscular blockers*.

34 (5) The following are excluded from authorization under
35 subparagraph (G) of paragraph (5) of subdivision (a):

36 (A) A laboratory test or imaging study.

37 (B) Any noninvasive device or technology that constitutes
38 surgery under paragraph (6).

39 (6) Performing surgery is excluded from the practice of
40 optometry. "Surgery" means any act in which human tissue is cut,

1 altered, or otherwise infiltrated by any means. It does not mean an
2 act that solely involves the administration or prescribing of a topical
3 or oral therapeutic pharmaceutical.

4 (7) (A) Treatment with topical and oral medications authorized
5 in subdivision (a) related to an ocular surgery shall be comanaged
6 with the ophthalmologist that performed the surgery, or another
7 ophthalmologist designated by that surgeon, during the customary
8 preoperative and postoperative period for the procedure. For
9 purposes of this subparagraph, this may involve treatment of ocular
10 inflammation in a patient under 18 years of age.

11 (B) Where published, the postoperative period shall be the
12 “global” period established by the federal Centers for Medicare
13 and Medicaid Services, or, if not published, a reasonable period
14 not to exceed 90 days.

15 (C) Such comanaged treatment may include addressing
16 agreed-upon complications of the surgical procedure occurring in
17 any ocular or adnexal structure with topical and oral medications
18 authorized in subdivision (a). For patients under 18 years of age,
19 this subparagraph shall not apply unless the patient’s primary care
20 provider agrees to allowing comanagement of complications.

21 (c) An optometrist certified pursuant to Section 3041.3 shall be
22 certified to medically treat authorized glaucomas under this chapter
23 after meeting the following requirements:

24 (1) For licensees who graduated from an accredited school of
25 optometry on or after May 1, 2008, submission of proof of
26 graduation from that institution.

27 (2) For licensees who were certified to treat glaucoma under
28 this section before January 1, 2009, submission of proof of
29 completion of that certification program.

30 (3) For licensees who completed a didactic course of not less
31 than 24 hours in the diagnosis, pharmacological, and other
32 treatment and management of glaucoma, submission of proof of
33 satisfactory completion of the case management requirements for
34 certification established by the board.

35 (4) For licensees who graduated from an accredited school of
36 optometry on or before May 1, 2008, and who are not described
37 in paragraph (2) or (3), submission of proof of satisfactory
38 completion of the requirements for certification established by the
39 board under Chapter 352 of the Statutes of 2008.

1 (d) An optometrist certified pursuant to Section 3041.3 shall be
2 certified to administer authorized immunizations, as described in
3 subparagraph (D) of paragraph (5) of subdivision (a), after the
4 optometrist meets all of the following requirements:

5 (1) Completes an immunization training program endorsed by
6 the federal Centers for Disease Control and Prevention (CDC) or
7 the Accreditation Council for Pharmacy Education that, at a
8 minimum, includes hands-on injection technique, clinical
9 evaluation of indications and contraindications of vaccines, and
10 the recognition and treatment of emergency reactions to vaccines,
11 and maintains that training.

12 (2) Is certified in basic life support.

13 (3) Complies with all state and federal recordkeeping and
14 reporting requirements, including providing documentation to the
15 patient's primary care provider and entering information in the
16 appropriate immunization registry designated by the immunization
17 branch of the State Department of Public Health.

18 (4) Applies for an immunization certificate in accordance with
19 Section 3041.5.

20 (e) Other than for prescription ophthalmic devices described in
21 subdivision (b) of Section 2541, any dispensing of a therapeutic
22 pharmaceutical agent by an optometrist shall be without charge.

23 (f) An optometrist licensed under this chapter is subject to the
24 provisions of Section 2290.5 for purposes of practicing telehealth.

25 (g) For the purposes of this chapter, all of the following
26 definitions shall apply:

27 (1) "Adnexa" means the eyelids and muscles within the eyelids,
28 the lacrimal system, and the skin extending from the eyebrows
29 inferiorly, bounded by the medial, lateral, and inferior orbital rims,
30 excluding the intraorbital extraocular muscles and orbital contents.

31 (2) "Anterior segment" means the portion of the eye anterior to
32 the vitreous humor, including its overlying soft tissue coats.

33 (3) "Ophthalmologist" means a physician and surgeon, licensed
34 under Chapter 5 (commencing with Section 2000) of Division 2
35 of the Business and Professions Code, specializing in treating eye
36 disease.

37 (4) "Physician and surgeon" means a physician and surgeon
38 licensed under Chapter 5 (commencing with Section 2000) of
39 Division 2 of the Business and Professions Code.

1 (5) "Prevention" means use or prescription of an agent or
2 noninvasive device or technology for the purpose of inhibiting the
3 development of an authorized condition or disease.

4 (6) "Treatment" means use of or prescription of an agent or
5 noninvasive device or technology to alter the course of an
6 authorized condition or disease once it is present.

7 (h) In an emergency, an optometrist shall stabilize, if possible,
8 and immediately refer any patient who has an acute attack of angle
9 closure to an ophthalmologist.

10 SEC. 2. Section 3041.4 is added to the Business and Professions
11 Code, to read:

12 3041.4. (a) An optometrist certified to treat glaucoma pursuant
13 to subdivision (c) of Section 3041 shall be certified to perform the
14 following set of advanced procedures after meeting the
15 requirements in subdivision (b) after graduating from an accredited
16 school of optometry:

17 (1) Laser trabeculoplasty.

18 (2) Laser peripheral iridotomy for the prophylactic treatment
19 of a clinically significant narrow drainage angle of the anterior
20 chamber of the eye.

21 (3) Laser posterior capsulotomy after cataract surgery.

22 (4) Excision or drainage of nonrecurrent lesions of the adnexa
23 evaluated consistent with the standard of care by the optometrist
24 to be noncancerous, not involving the eyelid margin, lacrimal
25 supply, or drainage systems, no deeper than the orbicularis muscle,
26 excepting chalazia, and smaller than five millimeters in diameter.
27 Tissue excised that is not fully necrotic shall be submitted for
28 surgical pathological analysis.

29 (5) Closure of a wound resulting from a procedure described in
30 paragraph (4).

31 (6) Injections for the treatment of chalazia and to administer
32 local anesthesia required to perform procedures delineated in
33 paragraph (4).

34 (7) Corneal crosslinking procedure, or the use of medication
35 and ultraviolet light to make the tissues of the cornea stronger.

36 (b) An optometrist shall satisfy the requirements specified in
37 paragraphs (1) and (2) to perform the advanced procedures
38 specified in subdivision (a).

39 (1) Within two years prior to beginning the requirements in
40 paragraph (2), an optometrist shall satisfy both of the following:

1 (A) Complete a California State Board of Optometry-approved
2 course of at least 32 hours that is designed to provide education
3 on the advanced procedures delineated in subdivision (a), including,
4 but not limited to, medical decisionmaking that includes cases that
5 would be poor surgical candidates, an overview and case
6 presentations of known complications, practical experience
7 performing the procedures, including a detailed assessment of the
8 optometrist's technique, and a written examination for which the
9 optometrist achieves a passing score.

10 (B) Pass both sections of the Laser and Surgical Procedures
11 Examination of the National Board of Examiners in Optometry,
12 or, in the event this examination is no longer offered, its equivalent,
13 as determined by the California State Board of Optometry. At the
14 California State Board of Optometry's discretion, the requirement
15 to pass the Laser and Surgical Procedures Examination may be
16 waived if an optometrist has successfully passed both sections of
17 the examination previously.

18 (2) Within three years, complete a California State Board of
19 Optometry-approved training program conducted in California,
20 including the performance of all required procedures that shall
21 involve sufficient direct experience with live human patients to
22 permit certification of competency, by an accredited California
23 school of optometry that shall contain the following:

24 (A) Hands-on instruction on no less than the following number
25 of simulated eyes before performing the related procedure on live
26 human patients:

27 (i) Five for each laser procedure set forth in clauses (i), (ii), and
28 (iii) of subparagraph (B).

29 (ii) Five to learn the skills to perform excision and drainage
30 procedures and injections authorized by this section.

31 (iii) Five to learn the skills related to corneal crosslinking.

32 (B) The performance of at least 43 complete surgical procedures
33 on live human patients, as follows:

34 (i) Eight laser trabeculoplasties.

35 (ii) Eight laser posterior capsulotomies.

36 (iii) Five laser peripheral iridotomies.

37 (iv) Five chalazion excisions.

38 (v) Four chalazion intralesional injections.

39 (vi) Seven excisions of an authorized lesion of greater than or
40 equal to two millimeters in size.

1 (vii) Five excisions or drainages of other authorized lesions.
2 (viii) One surgical corneal crosslinking involving removal of
3 epithelium.

4 (C) (i) If necessary to certify the competence of the optometrist,
5 the program shall require sufficient additional experience to that
6 specified in subparagraph (B) performing complete procedures on
7 live human patients.

8 (ii) One time per optometrist seeking initial certification under
9 this section, a procedure required by clause (i) to (vii), inclusive,
10 of subparagraph (B) may be substituted for a different procedure
11 required by clause (i) to (vii), inclusive, of subparagraph (B) to
12 achieve the total number of complete surgical procedures required
13 by subparagraph (B) if the procedures impart similar skills. The
14 course administrator shall determine if the procedures impart
15 similar skills.

16 (D) The training required by this section shall include at least
17 a certain percent of the required procedures in subparagraph (B)
18 performed in a cohort model where, for each patient and under the
19 direct in-person supervision of a qualified educator, each member
20 of the cohort independently assesses the patient, develops a
21 treatment plan, evaluates the clinical outcome posttreatment,
22 develops a plan to address any adverse or unintended clinical
23 outcomes, and discusses and defends medical decisionmaking.
24 The California State Board of Optometry-approved training
25 program shall be responsible for determining the percentage of
26 the required procedures in subparagraph (B).

27 (E) Any procedures not completed under the terms of
28 subparagraph (D) may be completed under a preceptorship model
29 where, for each patient and under the direct in-person supervision
30 of a qualified educator, the optometrist independently assesses the
31 patient, develops a treatment plan, evaluates the clinical outcome
32 posttreatment, develops a plan to address any adverse or unintended
33 clinical outcomes, and discusses and defends medical
34 decisionmaking.

35 (F) The qualified educator shall certify the competent
36 performance of procedures completed pursuant to subparagraphs
37 (D) and (E) on a form approved by the California State Board of
38 Optometry.

39 (G) Upon the optometrist's completion of all certification
40 requirements, the course administrator, who shall be a qualified

1 educator for all the procedures authorized by subdivision (a), on
2 behalf of the program and relying on the certifications of
3 procedures by qualified educators during the program, shall certify
4 that the optometrist is competent to perform advanced procedures
5 using a form approved by the California State Board of Optometry.

6 (c) The optometrist shall make a timely referral of a patient and
7 all related records to an ophthalmologist or, in an urgent or
8 emergent situation and an ophthalmologist is unavailable, a
9 qualified center to provide urgent or emergent care, after stabilizing
10 the patient to the degree possible if either of the following occur:

11 (1) The optometrist makes an intraoperative determination that
12 a procedure being performed does not meet a specified criterion
13 required by this section.

14 (2) The optometrist receives a pathology report for a lesion
15 indicating the possibility of malignancy.

16 (d) This section does not authorize performing blepharoplasty
17 or any cosmetic surgery procedure, including injections, with the
18 exception of removing acrochordons that meet other qualifying
19 criteria.

20 (e) An optometrist shall monitor and report the following
21 information to the California State Board of Optometry on a form
22 provided by the California State Board of Optometry or using an
23 internet-based portal:

24 (1) At the time of license renewal or in response to a request of
25 the California State Board of Optometry, the number and types of
26 procedures authorized by this section that the optometrist
27 performed and the diagnosis of the patient at the time the procedure
28 was performed.

29 (2) Within three weeks of the event, any adverse treatment
30 outcomes that required a referral to or consultation with another
31 health care provider.

32 (f) (1) With each subsequent license renewal after being
33 certified to perform the advanced procedures delineated in
34 subdivision (a), the optometrist shall attest that they have performed
35 each of the delineated procedures in subparagraph (B) of paragraph
36 (2) of subdivision (b) during the period of licensure preceding the
37 renewal.

38 (2) If the optometrist fails to attest to performance of any of the
39 advanced procedures specified in paragraph (1), the optometrist's
40 advanced procedure certification shall no longer authorize the

1 optometrist to perform that procedure until, with regard to that
2 procedure, the optometrist performs at least the number of the
3 specific advanced procedures required to be performed in
4 subparagraph (B) of paragraph (2) of subdivision (b), as applicable,
5 under the supervision of a qualified educator through either the
6 cohort or preceptorship model outlined in subparagraphs (D) and
7 (E) of paragraph (2) of subdivision (b), subject to subparagraph
8 (F) of paragraph (2) of subdivision (b), and the qualified educator
9 certifies that the optometrist is competent to perform the specific
10 advanced procedures. The qualified educator may require the
11 optometrist to perform additional procedures if necessary to certify
12 the competence of the optometrist. The optometrist shall provide
13 the certification to the California State Board of Optometry.

14 (g) The California State Board of Optometry shall review
15 adverse treatment outcome reports required under subdivision (e)
16 in a timely manner, requesting additional information as necessary
17 to make decisions regarding the need to impose additional training,
18 or to restrict or revoke certifications based on its patient safety
19 authority. The California State Board of Optometry shall compile
20 a report summarizing the data collected pursuant to subdivision
21 (e), including, but not limited to, percentage of adverse outcome
22 distributions by unidentified licensee and California State Board
23 of Optometry interventions, and shall make the report available
24 on its internet website.

25 (h) The California State Board of Optometry may adopt
26 regulations to implement this section.

27 (i) The California State Board of Optometry, by regulation, shall
28 set the fee for issuance and renewal of a certificate authorizing the
29 use of advanced procedures at an amount no higher than the
30 reasonable cost of regulating optometrists certified to perform
31 advanced procedures pursuant to this section.

32 (j) For the purposes of this section, the following definitions
33 apply:

34 (1) "Complete procedure" means all reasonably included steps
35 to perform a surgical procedure, including, but not limited to,
36 preoperative care, informed consent, all steps of the actual
37 procedure, required reporting and review of any specimen
38 submitted for pathologic review, and postoperative care. Multiple
39 surgical procedures performed on a patient during a surgical session
40 shall be considered a single surgical procedure.

1 (2) “Qualified educator” means a person nominated by an
2 accredited California school of optometry as a person who is
3 believed to be a suitable instructor, is subject to the regulatory
4 authority of that person’s licensing board in carrying out required
5 responsibilities under this section, and is either of the following:

6 (A) A California-licensed optometrist in good standing certified
7 to perform advanced procedures approved by the California State
8 Board of Optometry who has been continuously certified for three
9 years and has performed at least 10 of the specific advanced
10 procedures for which they will serve as a qualified educator during
11 the preceding two years.

12 (B) A California-licensed physician and surgeon who is
13 board-certified in ophthalmology, in good standing with the
14 Medical Board of California, and in active surgical practice an
15 average of at least 10 hours per week.

16 SEC. 3. No reimbursement is required by this act pursuant to
17 Section 6 of Article XIII B of the California Constitution because
18 the only costs that may be incurred by a local agency or school
19 district will be incurred because this act creates a new crime or
20 infraction, eliminates a crime or infraction, or changes the penalty
21 for a crime or infraction, within the meaning of Section 17556 of
22 the Government Code, or changes the definition of a crime within
23 the meaning of Section 6 of Article XIII B of the California
24 Constitution.

**Introduced by Senator Eggman
(Principal coauthor: Senator Wilk)**

February 7, 2023

An act to amend Section 2807 of the Penal Code, and to add Section 14131.08 to the Welfare and Institutions Code, relating to optometry.

LEGISLATIVE COUNSEL'S DIGEST

SB 340, as introduced, Eggman. Medi-Cal: eyeglasses: Prison Industry Authority.

Existing law establishes the Prison Industry Authority within the Department of Corrections and Rehabilitation and authorizes it to operate industrial, agricultural, and service enterprises that provide products and services needed by the state, or any political subdivision of the state, or by the federal government, or any department, agency, or corporation of the federal government, or for any other public use. Existing law requires state agencies to purchase these products and services at the prices fixed by the authority. Existing law also requires state agencies to make maximum utilization of these products and consult with the staff of the authority to develop new products and adapt existing products to meet their needs.

Existing law establishes the Medi-Cal program, which is administered by the State Department of Health Care Services and under which qualified low-income individuals receive health care services, including certain optometric services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions.

This bill, for purposes of Medi-Cal reimbursement for covered optometric services, would authorize a provider to obtain eyeglasses from a private entity, as an alternative to a purchase of eyeglasses from

the Prison Industry Authority. The bill would condition implementation of this provision on the availability of federal financial participation.

The bill, notwithstanding the above-described requirements, would authorize a provider participating in the Medi-Cal program to obtain eyeglasses from the authority or private entities, based on the optometrist’s needs and assessment of quality and value.

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

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

1 SECTION 1. This act shall be known, and may be cited, as the
2 Better Access to Better Vision Act.

3 SEC. 2. Section 2807 of the Penal Code is amended to read:
4 2807. (a) The authority is hereby authorized and empowered
5 to operate industrial, agricultural, and service enterprises ~~which~~
6 *that* will provide products and services needed by the state, or any
7 political subdivision thereof, or by the federal government, or any
8 department, agency, or corporation thereof, or for any other public
9 use. Products may be purchased by state agencies to be offered
10 for sale to inmates of the department and to any other person under
11 the care of the state who resides in state-operated institutional
12 facilities. Fresh meat may be purchased by food service operations
13 in state-owned facilities and sold for onsite consumption.

14 (b) All things authorized to be produced under subdivision (a)
15 shall be purchased by the state, or any agency thereof, and may
16 be purchased by any county, city, district, or political subdivision,
17 or any agency thereof, or by any state agency to offer for sale to
18 persons residing in state-operated institutions, at the prices fixed
19 by the authority. State agencies shall make maximum utilization
20 of these products, and shall consult with the staff of the authority
21 to develop new products and adapt existing products to meet their
22 needs.

23 (c) All products and services provided by the authority may be
24 offered for sale to a nonprofit organization, provided that all of
25 the following conditions are met:

26 (1) The nonprofit organization is located in California and is
27 exempt from taxation under Section 501(c)(3) of Title 26 of the
28 United States Code.

1 (2) The nonprofit organization has entered into a memorandum
2 of understanding with a local ~~educational~~ *education* agency. As
3 used in this section, “local ~~educational~~ *education* agency” means
4 a school district, county office of education, state special school,
5 or charter school.

6 (3) The products and services are provided to public school
7 students at no cost to the students or their families.

8 (d) Notwithstanding subdivision (b), the Department of Forestry
9 and Fire Protection may purchase personal protective equipment
10 from the authority or private entities, based on the Department of
11 Forestry and Fire Protection’s needs and assessment of quality and
12 value.

13 (e) *Notwithstanding subdivision (b), a provider participating*
14 *in the Medi-Cal program may obtain eyeglasses from the authority*
15 *or private entities, based on the provider’s needs and assessment*
16 *of quality and value.*

17 SEC. 3. Section 14131.08 is added to the Welfare and
18 Institutions Code, to read:

19 14131.08. For purposes of Medi-Cal reimbursement for covered
20 optometric services pursuant to Section 14132 or 14131.10 or any
21 other law, a provider may obtain eyeglasses from a private entity,
22 as an alternative to a purchase of eyeglasses from the Prison
23 Industry Authority pursuant to Section 2807 of the Penal Code.
24 This section shall be implemented only to the extent that federal
25 financial participation is available.

1 facilities, clinics, medical therapy units, residences, or physician
2 offices.

3 (3) This subdivision shall not be interpreted to allow the
4 violation of any state or federal law governing fiscal intermediaries
5 or Division 2 (commencing with Section 500) of the Business and
6 Professions Code, the Osteopathic Initiative Act, or the
7 Chiropractic Initiative Act. This subdivision does not remove the
8 requirement that each claim for reimbursement from the Medi-Cal
9 program identify the place of service and the rendering, ordering,
10 referring, and prescribing provider, where applicable.

11 (c) An applicant or provider licensed as a clinic pursuant to
12 Chapter 1 (commencing with Section 1200) of, or a health facility
13 licensed pursuant to Chapter 2 (commencing with Section 1250)
14 of, Division 2 of the Health and Safety Code may be enrolled in
15 the Medi-Cal program as a clinic or a health facility and need not
16 comply with Section 14043.26 if the clinic or health facility is
17 certified by the department to participate in the Medi-Cal program.

18 (d) An applicant or provider that meets the requirements to
19 qualify as exempt from clinic licensure under subdivisions (b) to
20 (l), inclusive, or subdivisions (n) to (p), inclusive, of Section 1206
21 of the Health and Safety Code shall comply with Section 14043.26
22 and may be enrolled in the Medi-Cal program as either a clinic or
23 within any other provider category for which the applicant or
24 provider qualifies. An applicant or provider to which any of the
25 clinic licensure exemptions specified in this subdivision apply
26 shall identify the licensure exemption category and document in
27 its application package the legal and factual basis for the clinic
28 license exemption claimed.

29 (e) Notwithstanding subdivisions (a), (b), (c), and (d), an
30 applicant or provider that meets the requirements to qualify as
31 exempt from clinic licensure pursuant to subdivision (h) of Section
32 1206 of the Health and Safety Code, including an intermittent site
33 ~~that is~~ operated by a licensed primary care clinic or an affiliated
34 mobile health care unit licensed or approved under Chapter 9
35 (commencing with Section 1765.101) of Division 2 of the Health
36 and Safety Code, and that is operated by a licensed primary care
37 clinic, and for which intermittent site or mobile health unit the
38 licensed primary care clinic directly or indirectly provides all
39 staffing, protocols, equipment, supplies, and billing services, need
40 not enroll in the Medi-Cal program as a separate provider and need

1 not comply with Section 14043.26 if the licensed primary care
2 clinic operating the applicant, provider clinic, or mobile health
3 care unit has notified the department of its separate locations,
4 premises, intermittent sites, or mobile health care units.

5 (f) A primary care clinic with (1) an additional physical plant
6 added to its primary care clinic license under a consolidated license
7 pursuant to subdivision (d) of Section 1212 of the Health and
8 Safety Code, or (2) a physical plant that was added to an existing
9 primary care clinic license by the State Department of Public
10 Health, prior to January 1, 2017, whether by a regional district
11 office or the centralized application unit, need not separately enroll
12 the additional physical plant as a separate provider, and need not
13 comply with Section 14043.26 if the primary care clinic has
14 notified the department of its additional physical plant.

15 (g) Notwithstanding any other law and to the extent permitted
16 by federal law, an applicant or provider that meets the requirements
17 to qualify as a mobile optometric office pursuant to Section 3070.2
18 of the Business and Professions Code and Section 14043.26 may
19 be enrolled in the Medi-Cal program as either a mobile optometric
20 office or within any other provider category for which the applicant
21 or provider qualifies.

22 (1) An applicant or provider to which Section 3070.2 of the
23 Business and Professions Code applies shall demonstrate its
24 compliance by providing proof of its nonprofit or charitable
25 organization status pursuant to Section 501(c)(3) or 501(c)(4) of
26 the Internal Revenue Code and a statement that it shall not accept
27 payment for services other than those provided to Medi-Cal
28 beneficiaries, even if the State Board of Optometry has not yet
29 issued final regulations as required by Section 3070.2 of the
30 Business and Professions Code or issued any registrations at the
31 time of enrollment.

32 (2) A mobile optometric office shall use the address of the owner
33 and operator of the mobile optometric office as registered with the
34 State Board of Optometry for its place of business address and
35 shall not be required to comply with Section 51000.60 of Title 22
36 of the California Code of Regulations.

37 (3) To the extent federal financial participation is available, a
38 mobile optometric office shall be permitted to bill the Medi-Cal
39 program for the professional optometry services provided by
40 licensed optometrists. The licensed optometrists providing service

1 at a mobile optometric office shall use the address of the owner
2 and operator of the mobile optometric office as registered with the
3 State Board of Optometry for its place of business address and
4 shall not be required to comply with Section 51000.60 of Title 22
5 of the California Code of Regulations.

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