

## **BILL ANALYSIS**

Senate Research Center

S.B. 1400  
By: Nixon  
Health Services  
5/10/1999  
As Filed

### **DIGEST**

Currently, the Texas Optometry Act regulates the practice of optometry in Texas. S.B. 1400 amends the Act to revise unclear, redundant, and out-of-date references. It makes substantive changes that modify the time limit by which an individual may serve on the Optometry Board (board) and authorizes the board to waive the examination requirement from an out-of-state applicant. This bill would also prevent optical companies from controlling the practice of optometrists regarding the number of patients the optometrists see and the diagnostic procedures performed by optometrists. These companies would also be prohibited from requiring direct access to the optometrist's computer records.

### **PURPOSE**

As proposed, S.B. 1400 regulates the practice of optometry.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2.02(i), Article 4552-2.02, V.T.C.S. (Texas Optometry Act), to prohibit time served on the Texas Optometry Board (board) prior to September 1, 1996, rather than 1981, from being counted toward term limits on the board.

SECTION 2. Amends Section 2.02(k)(2), Article 4552-2.02, V.T.C.S., to make standard recodification changes.

SECTION 3. Amends Section 2.05(d), Article 4552-2.05, V.T.C.S., to make standard recodification changes.

SECTION 4. Amends Section 2.14(b), Article 4552-2.14, V.T.C.S., to prohibit a certain rule from taking effect if the appropriate standing committee of both houses of the legislature acting under Section 2001.032, Government Code, rather than Administrative Procedure and Texas Register Act, transmit certain statements.

SECTION 5. Amends Section 3.01, Article 4552-3.01, V.T.C.S., to authorize the board to waive the requirements for taking all or a part of the examination required by this section if certain conditions exist.

SECTION 6. Amends Section 3.03B(b), Article 4552-3.03B, V.T.C.S., to require each fee increase collected to be deposited to the credit of the general revenue fund, rather than \$50 to be deposited to the credit of the general revenue fund.

SECTION 7. Amends Section 4.04(b), Article 4552-4.04, V.T.C.S., to make conforming change.

SECTION 8. Amends Sections 4.05(i), (j), (n), and (r), Article 4552-4.05, V.T.C.S., to require a person within 30 days after the date the board's order is final as provided by Chapter 2001F, Government Code, rather than Administrative Procedure and Texas Register Act, to take certain action. Provides that judicial review of the board is instituted by a petition as provided by Chapter 2001G, Government Code, rather than the Administrative Procedure and Texas Register Act. Makes conforming changes.

SECTION 9. Amends Section 4.09(a), Article 4552-4.09, V.T.C.S., to require the board, by rule, to adopt

procedures governing informal disposition of a contested case under Section 2001.056, Government Code, rather than Section 13(c), Administrative Procedure and Texas Register Act and informal proceedings held in compliance with Section 2001.054, Government Code, rather than Section 18(c), Administrative Procedure and Texas Register Act.

SECTION 10. Amends Section 5.06, Article 4552-5.06, V.T.C.S., to provide that it shall be unlawful for any person in this state to give contact lenses as a prize or premium, or as an inducement to sell any item of merchandise whatsoever. Deletes text regarding books, paper, magazines or any of literature or art.

SECTION 11. Amends Section 5.11(b), Article 4552-5.11, V.T.C.S., to redefine “controlling or attempting to control the professional judgement, the manner of practice, or the practice of an optometrist or therapeutic optometrist.”

SECTION 12. Amends Sections 5.12(a) and (c), Article 4552-5.12, V.T.C.S., to require the optometrist or therapeutic optometrist to make and record certain findings in the initial examination of a patient, if the optometrist or therapeutic optometrist determines that patient requires a prescription for an ophthalmic lens. Requires failure to comply with certain requirements to be considered by the board to be evidence that the optometrist or therapeutic optometrist is unfit or incompetent by reason of negligence within the meaning of Section 4.04(a)(2), rather than 4.04(a)(3), of this Act. Requires the charges to state the specific instances in which it is alleged that this section, rather than the rule was not complied with. Makes conforming changes.

SECTION 13. Amends Section 5.13(b), (c), and (j), Article 4552-5.13, V.T.C.S., to require it to be the duty of the board to institute and prosecute an action in a court of competent jurisdiction to restrain or enjoin the violation of any of the provisions of this section, rather than proceeding rules. Makes conforming changes.

SECTION 14. Amends Section 5.14(a), Article 4552-5.14, V.T.C.S., to make a conforming change.

SECTION 15. Effective date: September 1, 1999.

SECTION 16. Emergency clause.