LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO HOUSE BILL NO. 2386

Sponsor:

Printer's No. 3200

Amend Bill, page 1, lines 1 through 18; pages 2 and 3, lines 1 through 30; page 4, lines 1 through 25; by striking out all of said lines on said pages and inserting

Establishing the State Board of Opticianry; and providing for registration of opticians.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Optician Registration Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Board." The State Board of Opticianry established in section 3.

"Certification." A current certification by an organization approved by the board.

"Department." The Department of State of the Commonwealth.

"Optician-in-training." An individual registered with the board who performs the practice of opticianry under the supervision of a registered optician, licensed optometrist or licensed ophthalmologist as part of the individual's education or training and who is:

(1) enrolled in and actively attending an accredited opticianry educational program; or

(2) participating in an opticianry apprenticeship program recognized by the board.

"Patient optical care associate." An individual registered with the board who performs the practice of opticianry under the supervision of an optometrist or ophthalmologist licensed in this Commonwealth.

"Practice of opticianry." The provision of one or more of the following services based on a written prescription issued by a licensed optometrist or licensed ophthalmologist. The term includes a health care professional who:

(1) Provides patient education regarding prescription

eyewear and associated optical devices.

(2) Performs measurements.

(3) Prepares, fits, adjusts, analyzes, inspects, finishes, assembles and dispenses prescription eyeglasses and related optical devices.

(4) Fills and dispenses contact lenses under a valid prescription issued by a licensed optometrist or licensed ophthalmologist. The term excludes the fitting of contact lenses except as otherwise permitted by law.

"Registered optician." An individual who is registered with the board to practice opticianry in this Commonwealth and who:

(1) holds current opticianry certification from an organization approved by the board; or

(2) qualifies as a registered optician without certification under the grandfathered registration provisions of this act.

Section 3. State Board of Opticianry.

(a) Establishment.--The State Board of Opticianry is established to oversee registration and discipline of opticians and promulgate rules and regulations for the practice of opticianry.

(b) Membership.--

(1) The board shall consist of the following members appointed by the Governor:

(i) Five registered opticians who hold current certification from an organization approved by the board and who are actively practicing opticianry in this Commonwealth.

(ii) One optometrist or ophthalmologist who is licensed and actively practicing in this Commonwealth.

(iii) One public member who has no financial interest in the practice of opticianry, optometry, ophthalmology or the optical or eye care industries.

(2) Eligibility for appointment as a registered optician member under paragraph (1)(i) shall not be restricted or determined based upon the individual's employer, employment setting, business ownership or affiliation with a retail optical establishment or other practice setting.

(c) Terms.--

(1) Members of the board shall serve terms of four years in accordance with the following:

(i) No member may serve more than two consecutive full terms.

(ii) A member who has served two consecutive full terms shall not be eligible for reappointment until at least four years have elapsed since the expiration of the member's second consecutive term.

(2) Of the members initially appointed to the board, the Governor shall designate three members to serve initial terms of two years and four members to serve initial terms of four years so that terms are staggered and no more than four terms

expire in any two-year period. Thereafter, all terms shall be for four years.

(3) A member appointed to fill a vacancy shall serve the remainder of the unexpired term. Service of a partial term of less than two years shall not count toward the two-consecutive-term limit.

(4) A member shall continue to serve after the expiration of the member's term until a successor is appointed and qualified up to 12 months after the expiration of the member's term.

(5) Individuals appointed to the inaugural board must satisfy all qualifications for registration established under this act, other than active registration itself, and shall register within 30 days following publication of notice that the registration process is open.

(d) Quorum.--A majority of members must be physically present or online through a live-stream synchronous video conference or similar virtual presence technology to constitute a quorum.

(e) Absence.--Members who miss three consecutive meetings without an approved excuse shall forfeit their membership.

(f) Duties.--

(1) The board shall:

(i) Enforce the registration provisions of this act.

(ii) Review complaints and impose approved disciplinary actions under this act and regulations promulgated under this act.

(iii) Approve and maintain a list of approved certifying organizations.

(iv) Coordinate with organizations approved by the board for certification verification.

(v) Establish reasonable application and renewal fees for each registration classification. The following shall apply:

(A) Fees may vary by classification and shall be proportionate to the administrative and regulatory costs associated with the applicable registration.

(B) Fees shall not be established for the purpose of generating revenue beyond the costs of administering this act.

(vi) Maintain a publicly accessible registry of individuals registered and certified under this act, including each individual's registration classification.

(2) The board is authorized to promulgate regulations, approve certifying organizations, establish a fee schedule and take all other actions necessary to implement this act, so long as any regulations the board promulgates are limited to administrative, registration and disciplinary matters expressly authorized under this act and are consistent with 63 Pa.C.S. (relating to professions and occupations (State licensed)). The following shall apply:

(i) The board shall complete all actions necessary to implement this act and open the registration process by transmitting notice to the Legislative Reference Bureau no later than 12 months after the effective date of this subparagraph for publication in the next available issue of the Pennsylvania Bulletin.

(ii) If the board fails to publish notice under subparagraph (i) within 12 months of the effective date of this subparagraph, the department shall publish the notice on the board's behalf and the registration requirement shall take effect 30 days after the department's notice.

(g) Active supervision.--The following board actions are subject to active supervision by the department:

(1) A decision to deny, suspend or revoke a registration.

(2) A decision to disapprove or decertify a certifying organization.

(3) A regulation that imposes requirements on registrations, certifying organizations or continuing education providers beyond those expressly authorized in this act in accordance with the following:

(i) The department shall review any action described in this subsection within 30 days of the board's final decision.

(ii) If the supervising official determines that the action exceeds the board's authority under this act or is inconsistent with State policy, the department may rescind the action.

(iii) An action not rescinded within 30 days shall be deemed approved.

(iv) The board shall provide the department with timely notice of all actions subject to review under this subsection.

Section 4. Registration requirement.

(a) Requirement to register.--An individual who engages in the practice of opticianry in this Commonwealth shall be registered with the board in the applicable classification established under this act, unless otherwise excluded from the requirements of this act.

(b) Registration classifications.--The board shall provide for registration and set a fee schedule under each of the following classifications:

(1) An applicant for registration as a registered optician shall submit proof of current opticianry certification from an organization approved by the board, unless the applicant qualifies for registration without certification under the grandfathered registration provisions of this act.

(2) An individual who meets the qualifications established under this act for an optician-in-training shall

register with the board before engaging in the practice of opticianry as part of the individual's education, apprenticeship or structured training program. The individual shall maintain the supervision required under this act while practicing as an optician-in-training.

(3) An individual who performs the practice of opticianry under the responsibility and supervision of an optometrist or ophthalmologist licensed in this Commonwealth shall register with the board as a patient optical care associate. The individual may perform all duties included within the practice of opticianry while the required supervisory relationship is maintained. Certification shall not be required for initial or continued registration as a patient optical care associate.

(c) Protection of title.--An individual may not use the title "registered optician" or represent to the public that the individual is a registered optician unless the individual is registered as a registered optician under this act.

(d) Applicability.--The registration requirements under this section shall not take effect until the board transmits notice that the registration process is open and registrations are being accepted to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin.

Section 5. Registration maintenance and renewal.

(a) Registered optician.--A person who is registered as a certified optician with the board shall satisfy the continuing education requirements required by an organization approved by the board as a condition of continued registration.

(b) Optician-in-training.--An optician-in-training shall maintain eligibility for that registration classification by continuing to participate in an educational, apprenticeship or structured training program recognized by the board in accordance with this act and by maintaining the supervision required under this act.

(c) Patient optical care associate.--A patient optical care associate shall maintain the supervisory relationship required under this act as a condition of continued registration. Certification shall not be required for continued registration or renewal as a patient optical care associate.

(d) Grandfathered registered optician.--A registered optician who qualifies for registration without certification under the grandfathered registration provisions of this act shall not be required to obtain or maintain certification as a condition of continued registration or renewal.

(e) Renewal.--Registration under this act shall be renewed triennially. A registrant shall:

(1) demonstrate eligibility for the applicable registration classification;

(2) submit proof of current certification if certification is required for the registrant's

classification; and

(3) pay the applicable renewal fee.

Section 6. Supervision.

The oversight and professional responsibility exercised by a registered optician, licensed optometrist or licensed ophthalmologist, as applicable under this act, over the practice of opticianry performed by an optician-in-training or patient optical care associate shall be regulated by the board. The following shall apply:

(1) The supervising individual shall provide in-person, on-site supervision when the supervised individual engages in the practice of opticianry.

(2) A supervising individual may not simultaneously supervise more than three opticians-in-training or patient optical care associates at any one time.

Section 7. Exclusions and transitional provisions.

(a) Exclusion.--This act shall not apply to an optometrist or ophthalmologist who is licensed in this Commonwealth and who is practicing within the scope of the individual's license except as relates to supervising an optician-in-training or patient optical care associate.

(b) Transitional provision for currently certified opticians.--An individual who holds current opticianry certification from an organization approved by the board on the date the board opens registration under section 4(d) shall have three months from that date to submit proof of certification and a complete application for registration as a registered optician. During this period, the individual may continue to engage in the practice of opticianry.

(c) Transitional provision for individuals currently engaging in the practice of opticianry.--An individual who, on the date the board opens registration under section 4(d), has at least three years of documented experience in the practice of opticianry and does not hold current certification shall have six months from that date to obtain registration under a classification for which the individual qualifies under this act. The following shall apply:

(1) During this transitional period, the individual may continue to engage in the practice of opticianry.

(2) Nothing in this subsection shall prevent an individual from qualifying for another registration classification under this act.

(d) Grandfathered registration for experienced opticians.--

(1) An individual who has at least 25 cumulative years of documented experience in the practice of opticianry, which need not be consecutive, as of the effective date of this paragraph may qualify for registration as a registered optician without satisfying the certification requirement otherwise required under this act.

(2) An individual qualifying under paragraph (1) shall:

(i) submit an application to the board documenting

at least 25 years of experience in the practice of opticianry;

(ii) satisfy all registration requirements established under this act other than the certification requirement; and

(iii) pay the applicable registration fee.

(3) An individual registered under this subsection shall have the same rights and responsibilities under this act as a registered optician whose registration is based upon certification. The individual shall not be required to obtain or maintain national certification as a condition of registration or renewal.

(4) An individual seeking registration under this subsection shall submit a complete application within three months after the board opens registration under section 4(d).

(5) Expiration of the initial application period under paragraph (4) shall not terminate or otherwise affect the certification exemption or registration status of an individual who qualified and registered under this subsection during the application period.

(e) Transitional provision for reinstatement of lapsed certification.--

(1) An optician currently licensed in another state who has maintained the requirements of that state's license but whose national certification has lapsed shall have three months after the board opens registration to obtain reinstatement of the individual's certification. Reinstatement requirements and fees shall be determined by the applicable certifying organization.

(2) Following reinstatement of certification, an individual practicing opticianry within this Commonwealth who qualifies under paragraph (1) shall have three months to submit a complete application for registration as a registered optician. During the applicable transitional period, the individual may continue to engage in the practice of opticianry.

(f) Transitional provision for certification lapsed not more than 36 months.--An individual whose national opticianry certification has lapsed for a period not exceeding 36 months and who can document completion of continuing education during the period of lapse may seek reinstatement from the applicable certifying organization within three months after the board opens registration. Following reinstatement, the individual shall have three months to submit a complete application for registration as a registered optician. During the applicable transitional period, the individual may continue to engage in the practice of opticianry.

(g) Publication of transitional guidance.--The board shall publish and make publicly available a consolidated transitional guidance document identifying each registration pathway and optician title established under this act, including applicable

eligibility requirements, deadlines and documentation requirements.

(h) Commencement of transitional periods.--Unless otherwise specified in this section, a transitional period established under this section shall commence on the date that the notice that registration is open is published in the Pennsylvania Bulletin in accordance with this act.

Section 8. Construction.

Nothing in this act shall be construed to:

(1) Expand or modify the scope of practice of a registered optician, licensed optometrist or licensed ophthalmologist under any other provision of law, including the act of June 6, 1980 (P.L.197, No.57), known as the Optometric Practice and Licensure Act.

(2) Provide licensure to or expand or modify the scope of practice of opticians, optometrists or ophthalmologists.

Section 9. Five-year review.

No later than five years after the effective date of this section, the board shall provide the General Assembly with a review of the implementation of this act, including registration data, disciplinary activity, administrative costs and any recommendations for improvement.

Section 10. Effective date.

This act shall take effect in 60 days.