

## BILL ANALYSIS

Senate Research Center  
79R7863 MSE-D

S.B. 1025  
By: Madla  
State Affairs  
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As Filed

### AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently the cost for many treatments provided by ophthalmologists are not covered by insurance, making the procedures unaffordable. Additionally, with only 1,400 ophthalmologists statewide, many areas of Texas do not provide adequate access to vision care. Texans need reliable access to vision care along with lower health costs to employers, employees, and new patients. Breaking ophthalmology's monopoly on simple in-office procedures and on new technology such as laser correction would immediately increase competition and access.

As proposed, S.B. 1025 redefines the practice of therapeutic optometry and removes some of the restrictions currently placed on therapeutic optometrists.

### RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Optometry Board in SECTION 16 (Section 351.3586, Occupations Code) of this bill.

### SECTION BY SECTION ANALYSIS

SECTION 1. (a) Authorizes the Act to be called the Eye Doctor Competition Act.

(b) Sets forth the policies of the state pertaining to eye doctors.

(c) Requires this Act to be liberally construed to effectuate the policies of this state.

SECTION 2. Amends Section 104.003, Occupations Code, to amend Subsection (f) and add Subsection (f-1), as follows:

(f) Requires a person who is licensed by the Texas Optometry Board (board) as an optometrist to use optometrist; doctor, optometrist; doctor of optometry; doctor, O.D.; or O.D.

(f-1) Requires a person who is licensed by the Texas Optometry Board as a therapeutic optometrist to use a designation approved and authorized by the board.

SECTION 3. Amends Section 351.002, Occupations Code, to redefine "adnexa," "practice of optometry," and "practice of therapeutic optometry." Defines "contact lens," "CPT code," "major surgery," "minor surgery," "pharmaceutical agent," and "vision therapy."

SECTION 4. Amends Section 351.004, Occupations Code, to extend the sunset date for the board to September 1, 2017.

SECTION 5. Amends Section 351.051(a), to provide that the board consists of nine members, six of whom are therapeutic optometrists, rather than optometrists or therapeutic optometrists, and three members who represent the public.

SECTION 6. Amends Section 351.052(a), Occupations Code, to make a conforming change.

SECTION 7. Amends Section 351.053(a), Occupations Code, to delete existing text prohibiting a member or employee of the board from being a member of the faculty of a college of optometry.

SECTION 8. Amends Section 351.054, Occupations Code, to make a conforming change. Deletes existing text referring to service on the board prior to September 1, 1981, not counting towards board service term limits.

SECTION 9. Amends Section 351.154(b), Occupations Code, to require the board to deposit in the University of Houston development fund 25, rather than 15, percent of each annual renewal fee collect by the board under Section 351.152.

SECTION 10. Amends Section 351.251, Occupations Code, to prohibit a person from practicing optometry unless the person holds a license to practice optometry issued under this chapter. Prohibits a person from practicing therapeutic optometry unless the person holds a license to practice therapeutic optometry issued under this chapter. Makes a conforming change.

SECTION 11. Amends the heading to Section 351.260, Occupations Code, to read as follows:

Sec. 351.260. CLINICAL FACULTY.

SECTION 12. Amends Section 351.260, Occupations Code, by adding Subsection (d), to authorize a faculty member of an institution of higher education of this state who provides instruction in optometry or therapeutic optometry and who holds a license under this chapter to, in the course of teaching, perform and teach any procedure that may lawfully be performed by a licensed optometrist, therapeutic optometrist, or optometric physician in any other state.

SECTION 13. Amends Section 351.308(a), Occupations Code, to delete text pertaining to courses in vision care, vision therapy, and visual training.

SECTION 14. Amends Section 351.351(b), Occupations Code, to require, not later than the 30th, rather than 10th, day after the date of a change in the information required to be filed with the board under Subsection (a), the license holder to file with the board a written notice of the change.

SECTION 15. Amends Section 351.353, Occupations Code, to make changes to the necessary findings to be determined in an adequate examination of a patient for whom an optometrist or therapeutic optometrist signs or causes to be assigned an ophthalmic lens prescription.

SECTION 16. Amends Subchapter H, Chapter 351, Occupations Code, by adding Sections 351.3585, 351.3586, and 351.3587, as follows:

Sec. 351.3585. MINOR SURGICAL PROCEDURES THAT MAY BE PERFORMED BY THERAPEUTIC OPTOMETRIST. (a) Provides that the CPT code numbers in this section are provided only for reference.

(b) Authorizes a therapeutic optometrist to perform certain minor surgical procedures.

Sec. 351.3586. MINOR SURGICAL PROCEDURES REQUIRING CERTIFICATION.

(a) Provides that the CPT code numbers in this section are provided only for reference.

(b) Authorizes a therapeutic optometrist who has completed the education and testing requirements established for a procedure listed in this section to perform that procedure.

(c) Requires the board by rule to adopt additional education and test requirements that a therapeutic optometrist must complete before being certified to perform certain minor surgical procedures.

Sec. 351.3587. REMOVAL FOR ORGAN DONATION. Authorizes a therapeutic optometrist to remove all or part of the eye from a deceased person for transplant or other scientific purposes.

SECTION 17. Amends Section 351.360, Occupations Code, to delete existing text pertaining to an optometric glaucoma specialist.

SECTION 18. Amends Section 351.362(b), Occupations Code, to include that this subsection (relating to displaying the name under which an optometrist is licensed) does not apply to a person acting as a temporary relief optometrist or a temporary relief therapeutic optometrist.

SECTION 19. Amends Subchapter H, Chapter 351, Occupations Code, by adding Section 351.367, as follows:

Sec. 351.367. **COMANAGED CARE.** (a) Defines "comanage."

(b) Authorizes, notwithstanding any other law, a physician licensed under Subtitle B (Texas Optometry Board) to engage in certain optometric procedures.

SECTION 20. Amends Section 351.404, Occupations Code, as follows:

Sec. 351.404. New heading: **OPHTHALMIC GOODS OR SERVICES AS PRIZE OR INDUCEMENT.** Prohibits a person in this state from giving or delivering, or causing to be given or delivered, in any manner, ophthalmic goods or services as an inducement to sell nonophthalmic goods or services. Provides that this section is not intended to prevent the donation of ophthalmic goods or services for charitable purposes.

SECTION 21. Amends Section 351.452, Occupations Code, as follows:

Sec. 351.452. New heading: **PROHIBITED USE OF SCHEDULE I CONTROLLED SUBSTANCE.** Prohibits a therapeutic optometrist from administering or prescribing certain controlled substances.

SECTION 22. Amends Section 351.4521, Occupations Code, as follows:

Sec. 351.4521. New heading: **PERFORMANCE OF MAJOR SURGERY PROHIBITED.** Prohibits a therapeutic optometrist from performing major surgery. Deletes existing text referring to laser surgery.

SECTION 23. Amends Section 351.522(a), Occupations Code, to provide that the amount of an administrative penalty is prohibited from exceeding \$5,000, rather than \$2,500, for each violation.

SECTION 24. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.078, as follows:

Sec. 531.078. **REDUCED PAYMENT FOR CERTAIN MINOR SURGICAL PROCEDURES.** Requires the executive commissioner of the Health and Human Services Commission to set the reimbursement rate payable to a therapeutic optometrist under the state Medicaid program for certain procedures at 90 percent of the reimbursement rate payable to an ophthalmologist for the same procedure.

SECTION 25. Repealers: Section 351.160 (Pharmaceutical Agents), 351.165 (Optometric Health Care Advisory Committee), 351.354 (Certain Optometric Services Authorized), 351.355 (Determining or Measuring Vision), 351.358 (Ophthalmic Devices, Oral Medications, and Pharmaceutical Agents), and 351.3581 (Diagnosis and Treatment of Glaucoma), Occupations Code.

SECTION 26 (a) Provides that the change in law made by this Act to Section 351.051, Occupations Code, does not affect the entitlement of an optometrist serving on the Texas Optometry Board immediately before the effective date of this Act to continue to serve as a board member for the remainder of the member's term. Authorizes an optometrist who is serving on the Texas Optometry Board on the effective date of this Act to be reappointed to the board if the optometrist has the qualifications required for a board member under Subchapter B, Chapter 351, Occupations Code, as amended by this Act.

(b) Provides that the change in law made by this Act does not prohibit a person certified by the Texas Optometry Board as an "optometric glaucoma specialist" on the effective date of this Act from continuing to use that designation if the person is licensed by the board as a therapeutic optometrist.

(c) Provides that it is the intention of the legislature that the changes in law made by this Act are not intended to and will not have the effect of preventing an optometrist or therapeutic optometrist from performing any act that the optometrist or therapeutic optometrist could legally perform before the enactment of this Act.

SECTION 27. Effective date: September 1, 2005.