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H.B. 1025 Solomons (Shapleigh)

Summary

The Texas Optometry Board (the Board) was created in 1921 to ensure that safe and quality eye health services are provided to the citizens of Texas. The Board has three primary functions: licensing qualified individuals to practice optometry in Texas; enforcing the Optometry Act and key provisions of the State's Contact Lens Prescription Act; and investigating and resolving complaints. The Board currently licenses about 3,400 individuals, of which 1,358 are dually licensed as therapeutic optometrists and glaucoma specialists. The Board has a staff of seven and operates on an annual budget of \$372,000.

House Bill 1025 continues the Board for 12 years, and contains the Sunset Commission's recommendations to improve consumers' ability to shop competitively for contact lenses, and strengthen the Board's enforcement procedures. The legislation ensures that consumers have an effective state agency with clear authority to address contact lens complaints, and to better protect patient safety when purchasing contact lenses over the Internet. Additionally, the legislation strengthens the Board's regulatory authority over optometrists, creates a fairer process to resolve complaints, and provides the Board additional enforcement tools to protect the public's health and safety.

Sunset Provisions

1. Increase Consumers' Access to Their Contact Lens Prescriptions and Ensure Protection of Consumers' Eye Health When Purchasing Lenses From Dispensers.
2. Conform Key Elements of the Board's Licensing and Regulatory Functions to Commonly Applied Licensing Practices.
3. Continue the Texas Optometry Board for 12 Years.

Sunset Provisions

1. Increase Consumers' Access to Their Contact Lens Prescriptions and Ensure Protection of Consumers' Eye Health When Purchasing Lenses From Dispensers.

House Bill 1025 conforms the State's Contact Lens Prescription Act with federal regulations governing the release and verification of contact lens prescriptions. Specifically, the bill:

- requires optometrists and other contact lens prescribers to give patients their prescriptions without the patient having to ask for it;
- eliminates requirements for a contact lens seller to fill a prescription only from an original written prescription;
- authorizes verification of a contact lens prescription between a seller and an optometrist or other prescriber; and
- allows sellers to substitute one brand of lens for a different brand only if it is the same contact lens prescribed.

By providing consumers greater access to their contact lens prescriptions and establishing a process for verifying valid prescriptions, House Bill 1025 provides a greater range of purchasing choices. It also provides clear authority for the Board to address consumer complaints regarding access to prescriptions and to enforce provisions regarding the release or verification of a prescription by optometrists. The bill also requires the Texas Department of State Health Services to enforce provisions regarding verification requests from contact lens sellers permitted by the Department.

2. Conform Key Elements of the Board's Licensing and Regulatory Functions to Commonly Applied Licensing Practices.

To bring the Board in line with standard licensing agency practices, House Bill 1025 includes the following provisions.

- Requires the Board to change the way it calculates penalties for late license renewals.
- Requires the Board to investigate complaints according to risk.
- Authorizes staff to settle complaints which do not require optometric expertise, subject to the Board's final approval.
- Requires that at least two optometrist members of the Board review complaints requiring professional expertise.
- Requires the Board to include one of its public members in informal settlement processes.
- Authorizes the Board to provide for refunds by licensees to the consumer as part of the settlement conference process.
- Requires the Board to adopt an administrative penalty matrix in procedures or rules.
- Prevents the Board from requiring additional practice authority as part of a disciplinary action.
- Authorizes the Board to temporarily suspend a license.

- Authorizes the Board to issue cease-and-desist orders to stop unlicensed activity.
- Authorizes the Board to conduct unannounced inspections of optometrists' offices.
- Requires the Board to formally open complaints resulting from inspections.
- Eliminates Board authority to administer oral exams.

3. Continue the Texas Optometry Board for 12 Years.

House Bill 1025 continues the Board as a separate, stand-alone agency responsible for regulating the optometric profession for the standard 12-year period.

Fiscal Implication Summary

Requiring the Board to change the way it calculates late renewals will result in a gain to the General Revenue Fund of approximately \$2,775 annually, as shown in the chart below.

<i>Fiscal Year</i>	<i>Gain to the General Revenue Fund</i>
2006	\$2,775
2007	\$2,775
2008	\$2,775
2009	\$2,775
2010	\$2,775

