

EXECUTIVE SUMMARY

Texas Optometry Board

Project Manager: Kay Hricik

Full Report Here
www.sunset.texas.gov

The optometry profession has evolved over the 95 years since the Texas Optometry Board's creation, from a practice focused primarily on prescribing corrective lenses to one that additionally diagnoses and treats a wide variety of eye conditions and diseases. Much of the change occurred in Texas in the 1990s, with several significant amendments to the Texas Optometry Act. However, since the last Sunset review of the optometry board in 2005, the act remains relatively unchanged. The agency reflects the current stability of the profession.

The Sunset review found the optometry board to be generally well-run. Due in part to its small size and limited resources, the agency's approach to change is restrained and cautious. As with other small agencies under review, certain licensing practices need updating to be more consistent with standard best practices, such as online applications and fee payments, more thorough background checks, and a more modern website. In the area of enforcement, the agency has a light touch on practitioners compared to other agencies. The optometry board issues few tough sanctions, places a limited amount of information about a licensee's disciplinary history on the website, and does not report certain formal board actions to the National Practitioner Data Bank as would appear necessary. This pattern raises questions as to whether the board's regulation tilts more toward the profession than the public.

The agency takes a light touch on enforcement compared to other agencies.

Sunset staff considered whether an independent agency is the most appropriate structure to regulate the practice of optometry or if the benefits of consolidation with other health licensing agencies are significant enough to justify an organizational change. In a separate staff report, Sunset staff recommends transferring optometry regulation to the Health Professions Division of the Texas Department of Licensing and Regulation. Along with similar transfers of nine other health occupations licensing programs, this transfer will help improve efficiency of operations and customer service, reduce the potential of bias from a largely practitioner board, and reduce risk from the effects of possible staff turnover and potential lawsuits in such a small agency. Regardless of the organizational structure, the best practices outlined in this report should be implemented to gain efficiencies and better ensure fair and effective regulation of optometry services in Texas.

Issues and Recommendations

Issue 1

Key Elements of the Agency's Licensing Functions Do Not Conform to Common Licensing Standards.

Sunset staff found some of the board's licensing and enforcement processes do not match model standards or common practices observed in other regulatory agencies. Specifically, the agency has not conducted fingerprint-based criminal background checks on all licensees or checked the National Practitioner Data Bank (NPDB) on license applicants or optometrists holding licenses out of state. Unlike other agencies, the board's statute requires five affirmative votes to take enforcement action, a higher voting burden that favors licensees. The agency has not used technology fully to ease the burden on applicants when applying for a license, or to make disciplinary actions readily available on its website. Finally, the agency may not have reported formal board actions to NPDB as it should.

Key Recommendations

- Require the agency to conduct fingerprint-based criminal background checks of all licensure applicants and licensees over the next five years and to check NPDB for disciplinary actions in other states.
- Eliminate the statutory provision requiring five affirmative votes of the nine-member board to take enforcement action.
- Direct the agency to accept all license applications and fee payments online.
- Direct the agency to make all formal disciplinary orders easily accessible and readily available on its website.
- Direct the agency to report all letters of formal agreement to NPDB, if required.

Issue 2

Texas Should Continue Regulating the Practice of Optometry.

Texas has a continuing need to regulate the practice of optometry. Optometrists perform routine eye exams; prescribe corrective lenses; and diagnose, monitor, and treat conditions such as cataracts, macular degeneration, and glaucoma. Eye exams can detect systemic diseases including diabetes and hypertension, as well as diseases of the eye that could result in blindness if not treated. Some optometrists may prescribe drugs, including controlled substances.

However, as a small, independent agency with limited resources, the agency lags behind the larger health licensing agencies in adopting standard best practices to provide effective regulation and consistent service to the public. In a separate publication, Sunset staff has recommended the transfer of optometry regulation to the Health Professions Division of the Texas Department of Licensing and Regulation. The transfer would allow Texas to operate its system of numerous, inefficient small agencies as a unit to improve services while better controlling costs, and removing several risk factors that result from practice-controlled regulation.

Key Recommendation

- Continue the state's regulation of optometrists, regardless of organizational setting.

Fiscal Implication Summary

Overall, the recommendations in this report would not have a significant fiscal impact to the state, as most are designed to improve internal operations and efficiency at the agency in ways that have minimal impact on resources. Fiscal implications of a potential transfer of this agency are discussed in the Sunset Staff Report entitled Health Licensing Consolidation Project.

