

3196--B

2011-2012 Regular Sessions

I N   A S S E M B L Y

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Introduced by M. of A. MORELLE, CLARK, CYMBROWITZ, HOOPER -- Multi-Sponsored by -- M. of A. MILLMAN, ORTIZ, PERRY, WEISENBERG -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to registering and operating optical stores

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The education law is amended by adding a new article 144-A  
2     to read as follows:

3                             ARTICLE 144-A  
4                             OPTICAL STORES

5     SECTION 7130. OPTICAL STORES.

6     S 7130. OPTICAL STORES. 1. NO PERSON, FIRM, CORPORATION OR ASSOCIATION  
7     SHALL ENGAGE IN THE SALE OF PRESCRIPTION EYE GLASSES OR CONTACT LENSES,  
8     UNLESS THE ESTABLISHMENT AT WHICH OR THROUGH WHICH SUCH SALE IS EXECUTED  
9     IS: A. REGISTERED BY THE DEPARTMENT AS AN OPTICAL STORE, OR B. A PROFESSIONAL  
10    SERVICE CORPORATION, A LIMITED LIABILITY COMPANY, A PROFESSIONAL  
11    SERVICE LIMITED LIABILITY COMPANY, OR A REGISTERED LIMITED LIABILITY  
12    PARTNERSHIP.

13    2. A. OBTAINING A REGISTRATION. AN OPTICAL STORE SHALL BE REGISTERED  
14    AS FOLLOWS:

15    (1) THE APPLICATION SHALL BE MADE ON A FORM PRESCRIBED BY THE DEPARTMENT.  
16    MENT.

17    (2) THE APPLICATION SHALL BE ACCOMPANIED BY A FEE OF ONE HUNDRED  
18    EIGHTY DOLLARS; PROVIDED HOWEVER THAT PROFESSIONAL SERVICE CORPORATIONS,  
19    LIMITED LIABILITY COMPANIES, PROFESSIONAL SERVICE LIMITED LIABILITY

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 COMPANIES AND REGISTERED LIMITED LIABILITY PARTNERSHIPS ARE NOT SUBJECT  
2 TO SUCH FEE.

3 (3) A SEPARATE REGISTRATION SHALL BE REQUIRED FOR EACH SEPARATE  
4 LOCATION AT WHICH EYE GLASSES OR CONTACT LENSES ARE SOLD.

5 B. RENEWAL OF REGISTRATION. ALL REGISTERED OPTICAL STORE'S REGISTRA-  
6 TIONS SHALL BE RENEWED TRIENNIALLY. THE REGISTRATION RENEWAL APPLICATION  
7 SHALL BE ACCOMPANIED BY A FEE OF ONE HUNDRED DOLLARS. SUCH RENEWAL SHALL  
8 INCLUDE THE SUBMISSION OF SUCH INFORMATION AS MAY BE REQUIRED BY THE  
9 DEPARTMENT, PURSUANT TO REGULATIONS OF THE COMMISSIONER, ATTESTING TO  
10 THE ADEQUACY OF THE FACILITY AND SUCH OTHER STANDARDS DEEMED APPROPRIATE  
11 BY THE DEPARTMENT.

12 C. DISPLAY OF REGISTRATION. THE REGISTRATION SHALL BE CONSPICUOUSLY  
13 DISPLAYED AT ALL TIMES IN THE REGISTERED OPTICAL STORE. THE NAME AND  
14 ADDRESS OF THE OWNER OF A REGISTERED OPTICAL STORE SHALL BE CONSPICUOUS-  
15 LY DISPLAYED UPON THE EXTERIOR OF SUCH ESTABLISHMENT. THE NAME SO  
16 DISPLAYED SHALL BE PRESUMPTIVE EVIDENCE OF OWNERSHIP OF SUCH REGISTERED  
17 OPTICAL STORE BY SUCH PERSON. THE OPTICAL STORE REGISTRATION SHALL ALSO  
18 BEAR THE NAME OF THE LICENSED OPHTHALMIC DISPENSER, OPTOMETRIST OR  
19 PHYSICIAN HAVING DIRECT SUPERVISION OF THE REGISTERED OPTICAL STORE. IN  
20 THE EVENT THAT SUCH LICENSED OPHTHALMIC DISPENSER, OPTOMETRIST OR PHYSI-  
21 CIAN SHALL NO LONGER HAVE DIRECT SUPERVISION OF THE REGISTERED OPTICAL  
22 STORE, THE OWNER SHALL NOTIFY THE DEPARTMENT OF SUCH FACT AND THE NAME  
23 OF THE LICENSED OPHTHALMIC DISPENSER, OPTOMETRIST OR PHYSICIAN REPLACING  
24 THE OPHTHALMIC DISPENSER, OPTOMETRIST OR PHYSICIAN NAMED ON THE LICENSE  
25 AND SHALL APPLY FOR AN AMENDED REGISTRATION SHOWING THE CHANGE. THE  
26 AMENDED REGISTRATION SHALL BE ATTACHED TO THE ORIGINAL REGISTRATION AND  
27 DISPLAYED IN THE SAME MANNER.

28 D. CHANGE OF LOCATION. IN THE EVENT THAT THE LOCATION OF A REGISTERED  
29 OPTICAL STORE SHALL BE CHANGED, THE OWNER SHALL APPLY TO THE DEPARTMENT  
30 FOR ENDORSEMENT OF THE REGISTRATION FOR THE NEW LOCATION. THE FEE FOR  
31 SUCH ENDORSEMENT SHALL BE AS IS DETERMINED BY THE DEPARTMENT, UNLESS IT  
32 APPEARS TO THE SATISFACTION OF THE DEPARTMENT THAT THE CHANGE IN  
33 LOCATION IS OF A TEMPORARY NATURE DUE TO FIRE, FLOOD OR OTHER DISASTER.

34 E. CONDUCT OF A REGISTERED OPTICAL STORE. EVERY OWNER OF A REGISTERED  
35 OPTICAL STORE OR EVERY OPHTHALMIC DISPENSER, OPTOMETRIST OR PHYSICIAN IN  
36 CHARGE OF A REGISTERED OPTICAL STORE SHALL BE RESPONSIBLE FOR THE PROPER  
37 CONDUCT OF THE REGISTERED OPTICAL STORE AND CARRYING OUT THE PROVISIONS  
38 OF THIS ARTICLE. EVERY REGISTERED OPTICAL STORE SHALL BE UNDER THE  
39 DIRECT SUPERVISION OF A LICENSED OPHTHALMIC DISPENSER, OPTOMETRIST OR  
40 PHYSICIAN AT ALL HOURS WHEN OPEN. NO OPHTHALMIC DISPENSER, OPTOMETRIST  
41 OR PHYSICIAN SHALL HAVE DIRECT SUPERVISION OF MORE THAN ONE REGISTERED  
42 OPTICAL STORE AT THE SAME TIME.

43 3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO FACILITIES  
44 DEFINED PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW AND  
45 HEALTH MAINTENANCE ORGANIZATIONS WHICH OPERATE AN OPTICAL DISPENSING  
46 ESTABLISHMENT PROVIDED THE DISPENSING SERVICES OR PRODUCTS AT THE FACIL-  
47 ITIES ARE AVAILABLE ONLY TO INDIVIDUALS WHO ARE IN-PATIENTS OR OUT-PA-  
48 TIENTS AT SUCH FACILITIES. SUCH FACILITIES SHALL BE SUBJECT TO THE  
49 PROVISIONS OF THIS SECTION, IF THEY RENDER RETAIL OR WHOLESALE DISPENS-  
50 ING SERVICES OR PRODUCTS TO THE GENERAL PUBLIC.

51 4. INSPECTION. THE DEPARTMENT, AND ITS EMPLOYEES DESIGNATED BY THE  
52 COMMISSIONER, SHALL HAVE THE RIGHT TO ENTER A REGISTERED OPTICAL STORE  
53 AND INSPECT, AT REASONABLE TIMES, SUCH ESTABLISHMENT AND ALL RECORDS  
54 REQUIRED BY THIS ARTICLE, PERTINENT EQUIPMENT, AND RELATED FACILITIES,  
55 MATERIALS, AND OTHER ITEMS RELEVANT TO THE OPERATION OF SUCH STORE.

1 5. REVOCATION OR SUSPENSION. AN OPTICAL STORE REGISTRATION MAY BE  
2 REVOKED, SUSPENDED OR SUBJECT TO SUCH OTHER DISCIPLINARY SANCTIONS IN  
3 ACCORDANCE WITH THE PROVISIONS OF ARTICLE ONE HUNDRED THIRTY OF THIS  
4 TITLE. THE OWNER OF SUCH OPTICAL STORE SHALL BE LIABLE FOR ANY FINES OR  
5 FINANCIAL PENALTIES LEVIED AS THE RESULT OF SUCH DISCIPLINARY  
6 PROCEEDINGS. A SUPERVISING PROFESSIONAL SHALL ALSO BE SUBJECT TO DISCI-  
7 PLINARY PROCEEDINGS FOR FAILURE TO EXERCISE THE SUPERVISION REQUIRED BY  
8 THIS SECTION. SUCH DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED BY  
9 OFFICES OF PROFESSIONAL DISCIPLINE OR PROFESSIONAL MEDICAL CONDUCT, AS  
10 APPROPRIATE.

11 S 2. This act shall take effect on the one hundred eightieth day after  
12 it shall have become a law. Effective immediately, any rules and regu-  
13 lations necessary to implement the provisions of this act on its effec-  
14 tive date are authorized to be made on or before such date.