

3662--A

2011-2012 Regular Sessions

I N S E N A T E

March 1, 2011

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- 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 PROFES-  
10 SIONAL SERVICE LIMITED LIABILITY CORPORATION.

11 2. A. OBTAINING A REGISTRATION. AN OPTICAL STORE SHALL BE REGISTERED  
12 AS FOLLOWS:

13 (1) THE APPLICATION SHALL BE MADE ON A FORM PRESCRIBED BY THE DEPART-  
14 MENT.

15 (2) THE APPLICATION SHALL BE ACCOMPANIED BY A FEE OF ONE HUNDRED  
16 EIGHTY DOLLARS; PROVIDED HOWEVER THAT PROFESSIONAL SERVICE LIMITED  
17 LIABILITY CORPORATIONS ARE NOT SUBJECT TO SUCH FEE.

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

20 B. RENEWAL OF REGISTRATION. ALL REGISTERED OPTICAL STORE'S REGISTRA-  
21 TIONS SHALL BE RENEWED TRIENNIALLY. THE REGISTRATION RENEWAL APPLICATION  
22 SHALL BE ACCOMPANIED BY A FEE OF ONE HUNDRED DOLLARS. SUCH RENEWAL SHALL  
23 INCLUDE THE SUBMISSION OF SUCH INFORMATION AS MAY BE REQUIRED BY THE

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

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1 DEPARTMENT, PURSUANT TO REGULATIONS OF THE COMMISSIONER, ATTESTING TO  
2 THE ADEQUACY OF THE FACILITY AND SUCH OTHER STANDARDS DEEMED APPROPRIATE  
3 BY THE DEPARTMENT.

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

20 D. CHANGE OF LOCATION. IN THE EVENT THAT THE LOCATION OF A REGISTERED  
21 OPTICAL STORE SHALL BE CHANGED, THE OWNER SHALL APPLY TO THE DEPARTMENT  
22 FOR ENDORSEMENT OF THE REGISTRATION FOR THE NEW LOCATION. THE FEE FOR  
23 SUCH ENDORSEMENT SHALL BE AS IS DETERMINED BY THE DEPARTMENT, UNLESS IT  
24 APPEARS TO THE SATISFACTION OF THE DEPARTMENT THAT THE CHANGE IN  
25 LOCATION IS OF A TEMPORARY NATURE DUE TO FIRE, FLOOD OR OTHER DISASTER.

26 E. CONDUCT OF A REGISTERED OPTICAL STORE. EVERY OWNER OF A REGISTERED  
27 OPTICAL STORE OR EVERY OPHTHALMIC DISPENSER, OPTOMETRIST OR PHYSICIAN IN  
28 CHARGE OF A REGISTERED OPTICAL STORE SHALL BE RESPONSIBLE FOR THE PROPER  
29 CONDUCT OF THE REGISTERED OPTICAL STORE AND CARRYING OUT THE PROVISIONS  
30 OF THIS ARTICLE. EVERY REGISTERED OPTICAL STORE SHALL BE UNDER THE  
31 DIRECT SUPERVISION OF A LICENSED OPHTHALMIC DISPENSER, OPTOMETRIST OR  
32 PHYSICIAN AT ALL HOURS WHEN OPEN. NO OPHTHALMIC DISPENSER, OPTOMETRIST  
33 OR PHYSICIAN SHALL HAVE DIRECT SUPERVISION OF MORE THAN ONE REGISTERED  
34 OPTICAL STORE AT THE SAME TIME.

35 3. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO FACILITIES  
36 DEFINED PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW AND  
37 HEALTH MAINTENANCE ORGANIZATIONS WHICH OPERATE AN OPTICAL DISPENSING  
38 ESTABLISHMENT PROVIDED THE DISPENSING SERVICES OR PRODUCTS AT THE FACIL-  
39 ITIES ARE AVAILABLE ONLY TO INDIVIDUALS WHO ARE IN-PATIENTS OR OUT-PA-  
40 TIENTS AT SUCH FACILITIES. SUCH FACILITIES SHALL BE SUBJECT TO THE  
41 PROVISIONS OF THIS SECTION, IF THEY RENDER RETAIL OR WHOLESALE DISPENS-  
42 ING SERVICES OR PRODUCTS TO THE GENERAL PUBLIC.

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

48 5. REVOCATION OR SUSPENSION. AN OPTICAL STORE REGISTRATION MAY BE  
49 REVOKED, SUSPENDED OR SUBJECT TO SUCH OTHER DISCIPLINARY SANCTIONS IN  
50 ACCORDANCE WITH THE PROVISIONS OF ARTICLE ONE HUNDRED THIRTY OF THIS  
51 TITLE. THE OWNER OF SUCH OPTICAL STORE SHALL BE LIABLE FOR ANY FINES OR  
52 FINANCIAL PENALTIES LEVIED AS THE RESULT OF SUCH DISCIPLINARY  
53 PROCEEDINGS. A SUPERVISING PROFESSIONAL SHALL ALSO BE SUBJECT TO DISCI-  
54 PLINARY PROCEEDINGS FOR FAILURE TO EXERCISE THE SUPERVISION REQUIRED BY  
55 THIS SECTION. SUCH DISCIPLINARY PROCEEDINGS SHALL BE CONDUCTED BY

1 OFFICES OF PROFESSIONAL DISCIPLINE OR PROFESSIONAL MEDICAL CONDUCT, AS  
2 APPROPRIATE.

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