

BILL ANALYSIS

S.B. 820
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The vision care industry is currently being consolidated and integrated much like other health care industries. By law, optometrists can only be self-employed or employed by another optometrist or physician. Also, by law, a corporation cannot control the practice of optometry. Recently, however, corporate entities, through business agreements, have begun controlling many or all aspects of optometric practice. Business agreements between corporate entities and optometrists can obscure aspects of an optometry practice not only to patients but to the state. This can also create an environment where the corporation's financial motivations risk superseding the patient's best interests. This may also impact government assistance insurance programs such as Medicaid in an improper manner through overutilization. When complaints arise, or investigations are needed, these corporations and their participants need to be able to be identified and held accountable. S.B. 820 seeks to address these issues by establishing what constitutes a "vision support organization" and by requiring these organizations to annually register with the state so that regulators have access to necessary information about private entities engaged in business agreements with optometrists.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 820 amends the Business & Commerce Code to provide for the annual registration of vision support organizations (VSOs), which are entities that, under one or more agreements, provide two or more business support services to a state-licensed optometrist or therapeutic optometrist. For this purpose, the bill defines "business support services" as business, management, consulting, or administrative services, facilities, or staff provided for an optometrist or therapeutic optometrist or an entity that employs or contracts with an optometrist or therapeutic optometrist to provide services or products, including:

- office space, furnishings, equipment, supplies, or inventory;
- staff employed by a vision support organization;
- regulatory compliance;
- eye care equipment, supplies, or products;
- information systems;
- marketing or advertising;
- financial services;
- accounting, bookkeeping, or monitoring of accounts receivable;

- payroll or benefits administration;
- billing and collection for services and products;
- reporting and payment of federal or state taxes;
- administration of interest expense or indebtedness incurred to finance the operation of a business;
- insurance services; or
- group purchasing services.

Beginning February 1, 2024, S.B. 820 requires a VSO to register with the secretary of state not later than January 31 each year for which the registration is effective. A VSO that initially meets the registration requirements after January 31 must file the registration not later than the 90th day after the date an agreement to provide business support services is executed. The bill requires the registration to include the following information:

- the VSO's name and business address;
- the name and business address of each optometrist and each entity that employs or contracts with an optometrist to provide eye care services in Texas with which the VSO has entered into an agreement to provide two or more business support services;
- the name of each optometrist or therapeutic optometrist who owns any portion of the VSO;
- the name of each person who is not an optometrist or therapeutic optometrist and owns five percent or more of the VSO; and
- a list of all business support services provided to each optometrist or therapeutic optometrist or each entity that employs or contracts with an optometrist or therapeutic optometrist to provide eye care services.

In addition, a VSO is required to file a corrected registration semiannually as necessary. The bill requires the annual registration and each corrected registration to be accompanied by a fee set by the secretary of state in an amount necessary to recover applicable administrative costs. The bill establishes that a registration or corrected registration is not effective until the fee is paid and clarifies that a VSO's registration is considered registration of any subsidiary, contractor, or affiliate of the VSO through or with which the VSO provides business support services if the registration includes all required information from each such entity as if the entity had filed individually.

S.B. 820 exempts the following from the registration requirements:

- an accountant providing only accounting services;
- an attorney providing only legal counsel;
- an insurance company or insurance agent providing only insurance policies to a business;
- entities providing only investment and financial advisory services;
- an accredited college of optometry or college of medicine in Texas;
- an optometrist or therapeutic optometrist who has an ownership interest in three or fewer locations;
- a nonprofit community health center that is organized and operated as a federally qualified health center or a migrant, community, or homeless health center; and
- a 501(c)(3) tax-exempt organization that performs eye care services primarily for homeless, migrant, indigent, or medically underserved populations.

S.B. 820 makes a person who fails to file a registration or corrected registration as required by the bill liable to the state for a civil penalty in an amount capped at \$1,000. Each day a violation continues or occurs is a separate violation for the purpose of imposing the penalty. The bill requires the attorney general to file suit to collect the penalty and authorizes the attorney general to do so in Travis County or any county where the vision support organization provides business support services.

S.B. 820 requires the secretary of state to enter into an interagency memorandum to share the information it collects with regard to a VSO registration with any relevant state agency. The bill

expressly does not limit business support services that a VSO may provide to an optometrist or therapeutic optometrist, to the extent permitted under Occupations Code provisions relating to prohibited practices with regard to the control of optometry.

S.B. 820 prohibits the Texas Optometry Board from adopting any rule limiting the right of an optometrist or therapeutic optometrist to contract with a VSO for business support services that are otherwise legally permissible.

EFFECTIVE DATE

September 1, 2023.