

## New laws affecting optometry

As you know, optometry is a legislated profession. That's why COA advocates on your behalf and keeps track of all of the new laws that affect your business. Several new laws took effect at the beginning of this year. If you missed it last month, see below for a list of measures approved by the governor affecting optometry. Unless stated otherwise, all new laws took effect **January 1, 2016**.

### Optometry

#### **[AB 684](#), Alejo, D: Practice of optometry in retail settings.**

Prohibits health plans from employing optometrists to provide services to enrollees. Authorizes the establishment of landlord-tenant relationships between a registered dispensing optician (RDO), an optical company or health plan and an optometrist as specified; transfers the regulation of RDOs from the Medical Board of California to the State Board of Optometry (SBO); and establishes a three-year period for the transition of direct employment of optometrists to a leasing arrangement.

#### **[AB 1253](#), Steinorth, R: Retired volunteer service designation.**

Clarifies a pathway for optometrists to obtain retired volunteer service designation (volunteer license) for those who have not held an active license in more than three years.

#### **[AB 1359](#), Nazarian, D: Therapeutic pharmaceutical agents certification.**

Designates a TPA certification pathway for doctors of optometry who have not yet obtained it.

### Prescriptions

#### **[AB 679](#), Allen, R: Required 'CURES' database registration.**

Postpones the date when health care providers who have a DEA number must additionally register for the DEA's "CURES" database from January 1, 2016, to July 1, 2016. **Note:** See "[Register for CURES](#)" in the September 2015 edition of this newsletter for more information on how to register. **Effective October 11, 2015.**

### Business Practice

#### **[AB 1521](#), Assembly Committee on Judiciary: Disability access - ADA claims.**

Requires additional information and legal resources be provided to small business owners who may not realize how to minimize their liability for Americans with Disabilities Act (ADA) violations or how to respond to a lawsuit filed against them. Also limits the practice of high-volume lawsuits motivated by quick settlement with business owners, rather than correction of ADA violations. **Effective October 10, 2015.**

### Employer-Employee Relations

#### **[AB 304](#), Gonzalez, D: Mandatory paid sick leave – accrual.**

Makes clarifying changes to [AB 1522](#), Gonzalez, enacted last year, relative to sick leave accrual options and calculation of leave pay to ease implementation of California's new mandatory paid sick leave law. **Note:** See COA fact sheet "[Healthy Workplaces, Healthy Families Act of 2014: Overview of California's Paid Sick Leave Law](#)" for more information. **Effective July 13, 2015.**

**[AB 583](#), Chávez, R: National Guard service – employment reinstatement.**

Expands existing employment protections for members of the California National Guard to members of the national guard of any state when they are called to active military service by that state's governor or by the U.S. president. More specifically, requires employers to treat these absences as a leave of absence and requires employers to restore an affected employee who worked full-time to his or her former or similar position of similar seniority and pay with no loss of benefits unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so; and, to restore an affected employee who worked part-time to his or her former or similar position with similar seniority and pay, if it exists.

**[AB 622](#), Hernández, Roger, D: Electronic employment verification system (E-Verify) - prohibited uses.**

Enacts provisions of law related to the use of the federal electronic employment verification system known as E-Verify used to verify a person's authorization to work in the U.S. This bill limits the misuse of E-Verify by prohibiting employers from engaging in unjust E-Verify practices that discriminate against workers and creates a \$10,000 civil penalty for each violation by employers who maliciously use E-Verify with employees or applicants.

**[AB 987](#), Levine, D: Unlawful discrimination - disability and religious accommodation requests.**

Revises provisions of the Fair Employment and Housing Act (FEHA) related to employee requests for accommodation by making it an unlawful employment practice for an employer to retaliate or otherwise discriminate against a person for "requesting" an accommodation for physical or mental disability or religious belief or observance, regardless of whether the request was granted.

**[AB 970](#), Nazarian, D: State labor commissioner enforcement of local wage and hour rules.**

Authorizes the state labor commissioner to enforce local minimum wage and overtime rules against alleged employer violators. More and more local municipalities are enacting their own wage and hour rules, including San Francisco, Oakland, Berkeley and San Jose.

**[AB 1245](#), Cooley, D: Required electronic transfer of unemployment withholdings.**

Requires employers of **10 or more** by **January 1, 2017**, and **all employers** by **January 1, 2018**, to remit unemployment withholdings and file related returns electronically with the state Employment Development Department. An employer may request a waiver from these requirements that demonstrates a lack of automation, a severe economic hardship, a current exemption from filing electronically for federal purposes, or other good cause. **Note:** See COA-endorsed [Heartland Payment Systems](#) which takes full responsibility to electronically pay and file all required employee and employer payroll taxes and reports, including unemployment withholdings and reports – at a substantial savings for members. **Effective January 1, 2017.**

**[AB 1509](#), Hernández, Roger, D: Expanded 'Whistleblower' protections.**

Expands existing protections for employees engaged in protected activities from employment retaliation by an employer, including, but not limited to, threat of or employment discharge, demotion or suspension, to employees who are a family member of a person who has engaged in protected activity. Protected activity by an employee includes, but is not limited to, making complaint that for owed unpaid wages or claims regarding the employee's safety or health. Violation of prohibited employer retaliation is subject to a civil penalty of up to \$10,000.

**[SB 358](#), Jackson, D: Gender wage differential.**

Prohibits employers from forbidding their employees to compare wages. It also requires equal pay for “substantially similar work” regardless of gender, strengthening the state’s existing Equal Pay Act. Provides clarity to the term “bona fide factor” under which an employer may provide differential pay for a legitimate business purpose, such as to compensate an employee who has more extensive training, education or experience.

**SB 501, Wieckowski, D: Wage garnishment restrictions.**

Revises the formula for calculating the maximum amount of a person's weekly wage earnings that can be garnished to satisfy a judgment debt to the lesser of 25 percent of the employee’s weekly earnings, or 50 percent of the amount by which the employee’s earnings for the week exceed 40 times the minimum wage.

**SB 588, De León, D: Enforcement for Failure to Pay Wages:** Authorizes the state labor commissioner to place a levy on an employer’s property, including bank accounts, who has not complied with a judgement to pay an employee, back wages, interest and penalties. If the employer still does not pay as ordered, the labor commissioner may require the employer to obtain a bond of up to \$150,000 in order to continue conducting business. If the employer does not obtain the bond, the labor commissioner may prohibit that employer from using any employees in operation of the business.

## **Medi-Cal**

**AB 187, Bonta, D: Medi-Cal managed care - California Children's Services program.**

Extends the sunset date on the California Children's Services (CCS) “carve out” by one year to January 2017 under which CCS-covered services are prohibited from being incorporated in a Medi-Cal managed care plan beyond the six counties in which CCS is already part of a managed care plan.

**SB 4, Lara, D: Medi-Cal coverage – undocumented children.**

Ensures that undocumented children under the age of 19 who are currently enrolled in restricted scope Medi-Cal are covered by full-scope Medi-Cal on May 1, 2016. A 2015 budget bill expanded Medi-Cal coverage to all children, regardless of immigration status.

**SB 299, Monning, D: Medi-Cal provider enrollment.**

Exempts health care providers submitting a Medi-Cal provider application package to the Department of Health Care Services (DHCS) from the current notarization requirements if the provider enrolls electronically. Also, conforms state law to federal regulation by requiring DHCS to designate a provider or applicant as a “high” categorical risk if DHCS lifted a temporary moratorium within the previous six months for the particular provider type submitting the application. **Effective September 4, 2015.**

## **Health Plans**

**SB 125, Hernandez, Ed, D: Health care coverage.**

Extends the sunset of the California Health Benefits Review Program (CHBRP) for two years to June 30, 2017, and extends the existing assessment on health plans and health insurers to support the program. It also conforms to federal law for: **(1)** annual open enrollment period in the individual health insurance market, and **(2)** the method of counting employees for the purposes of determining whether an employer is in the small or large group health insurance markets. **Effective June 17, 2015.**

**[SB 137](#), Hernandez, Ed, D: Provider directories.**

Requires health plans and insurers to provide updated provider directories and sets standards on how to make this possible. It also requires online directories to be updated at least weekly. Requires health plans or insurers to reimburse enrollees for any amount over what they would have been paid for in-network services in circumstances where the enrollee reasonably relied upon inaccurate, incomplete, misleading or confusing information in a provider's directory. Providers must respond to health plan notifications (some will be contacted once a year, others twice) within 30 days to verify information to avoid possible delays in payment or reimbursement of claims and/or from being removed from the directories. A provider group may terminate a contract with a provider for a pattern or repeated failure of the provider to update the information required to be in the directory or directories.

**Confidentiality**

**[AB 964](#), Chau, D: Personal information data breaches - definition of 'encryption.'**

Clarifies the state's existing data breach notification law for private businesses and public agencies that hold unencrypted personal information by providing a definition of encryption: "rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security."

**[AB 1541](#), Assembly Committee on Privacy and Consumer Protection: Personal information privacy.**

Revises the definition of "personal information" for purposes of the required protection of that information by businesses that own, license or maintain that information from unauthorized access, destruction, use, modification or disclosure, to include health insurance information, as defined, and a username or email address combined with a password or security question and answer for access to an online account.

**[SB 570](#), Jackson, D: Personal information breach notices.**

Improves the readability of breach notifications by simplifying and standardizing how breached entities communicate relevant information to affected California residents. It directs these entities to convey the information currently required in a notification entitled "Notice of Data Breach" to be grouped under the following five headings: What Happened; What Information Was Involved; What We Are Doing; What You Can Do; and For More Information. The bill also provides a model security breach notification form that entities may use to comply with formatting requirements.

**Health Records**

**[AB 1337](#), Linder, R: Attorney requests for medical records**

Establishes a standardized authorization form for medical records requests made by attorneys or their representatives that must be accepted by all providers. Also, requires a provider to make available records electronically if requested and producible in that format.