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COMMITTEE AMENDMENT ADOPTED

May 3, 2022

**H. 4837**

Introduced by Reps. Elliott, B. Cox, Felder, B. Newton, Pope, Wooten, Caskey, Collins, Haddon, Gilliam, W. Cox, Atkinson, Jefferson, Forrest, R. Williams, Bryant, T. Moore, Hardee, McGinnis, Anderson, Thigpen, Hayes, Rutherford, Hyde, Daning, Bennett, Huggins, M.M. Smith, White, V.S. Moss, Blackwell, Taylor, Ballentine, Henegan and Matthews

S. Printed 5/3/22--S. [SEC 5/5/22 2:42 PM]

Read the first time March 15, 2022.

**A** **BILL**

TO AMEND SECTION 40‑37‑320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO OPTOMETRY MOBILE UNITS, SO AS TO PROVIDE ADDITIONAL REQUIREMENTS FOR THE OPERATION OF SUCH UNITS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑37‑20 of the 1976 Code is amended by adding and item at the end to read:

“( ) ‘Operator’ means the licensed optometrist, optometric practice, or organization engaged in providing optometric services directly or through persons authorized by law to provide the services.”

SECTION 2. Section 40‑37‑320(B) of the 1976 Code is amended to read:

“(B)(1) Mobile units may be used~~; however, the optometrist shall obtain a registration~~ either by a licensed optometrist, optometric practice, or organization using a licensed optometrist to operate the mobile optometric unit if the operator obtains a permit for the mobile unit from the board and complies with the other provisions of this subsection. A mobile unit must be limited to visiting and providing services:

(a) to licensed health care facilities within this State; or

(b) on the site of a Title I public school to the students attending the school, provided the services must be rendered as part of a not‑for‑profit program.

(2) In order to operate a mobile unit in this State, the operator shall submit a permit application and fee in the form and manner set forth by the board.

(3)(a) A mobile unit permit only may be issued following an inspection of the mobile unit by an authorized representative of the board. Upon the completion of a satisfactory inspection, the board shall issue the applicant a mobile unit permit. The applicant must affix the permit in a prominent and conspicuous place within the mobile unit.

(b) A mobile unit permit issued under this subsection annually must be renewed upon the payment of a renewal fee and satisfactorily undergoing an annual inspection.

(c) In addition to the annual inspection, a mobile unit authorized to operate under this subsection is subject to periodic unannounced inspections by an authorized representative of the board. If the mobile unit is a not‑for‑profit organization operating at a Title 1 school, the periodic unannounced inspection must be conducted after school hours.

(4)(a) The mobile unit shall maintain and furnish to the board both an official business address of record, which may not be a post office box, and an official telephone number of record. A mailing address, if different than the business address and used on an official basis, also must be provided to the board.

(b) The board must be notified within thirty days of any change in the address or telephone number of record.

(c) All written or printed documents available from or issued by a mobile unit must contain an official address and telephone number of record for the mobile unit.

(d) All records must be maintained and available for inspection and copying upon request by the board, subject to HIPPA and FERPA privacy protections.

(5) The operator in charge of each mobile unit, in addition to the other requirements of this subsection, shall ensure that:

(a) all services provided in the mobile unit follow all statutes, regulations, and board policies that regulate the practice of optometry in this State;

(b) written procedures are implemented for emergency or follow‑up care for patients treated in the mobile unit, including making prior arrangements, as may be appropriate, for emergency or follow‑up treatment in an optometric unit located in the geographic area where services are being provided;

(c) the mobile unit complies with all applicable federal, state, and local laws, regulations, and ordinances dealing with flammability, construction, sanitation, zoning, infectious waste management, universal precautions, occupational safety, access by persons with disabilities, and federal Centers for Disease Control guidelines;

(d) the operator possesses all applicable county and city licenses or permits, including business licenses, to operate the unit at the location where services are being provided;

(e) the mobile unit is at all times fitted with working carbon monoxide detection devices;

(f) no services are performed on minors without consent of their parent or guardian; and

(g) during or at the conclusion of each patient’s visit to the mobile unit, the patient is provided with an information sheet, and if the patient or their parent or guardian has provided consent to an institutional facility to assist in the patient’s health records, the institutional facility is provided with a copy of the information sheet. An institutional facility includes, but is not limited to, a long‑term care facility or school, and an information sheet must include the following:

(i) pertinent contact information as provided by this subsection;

(ii) the name of the optometrist, optician, and other staff who provided services and their license numbers, if applicable;

(iii) a description of the treatment rendered;

(iv) a description of any optometric needs diagnosed during the optometrist’s examination; and

(v) a recommendation that the patient see another optometrist if the mobile unit is unable to provide the follow‑up treatment described in subsubitem (iv).

(6) A mobile unit that accepts a patient and provides preventive treatment, including a screening, eye examination, or prescription for corrective lenses, but does not follow up with treatment or a referral for treatment when such treatment is clearly indicated, is considered to have abandoned the patient. Appropriate arrangements must be made for treatment services within the patient’s geographic area on a follow‑up basis. Reasonable attempts to have follow‑up treatment when a patient does not reappear for treatment or does not meet a scheduled appointment is not considered abandonment.

(7) In addition to the other requirements of this subsection, every mobile unit must have:

(a) written procedures and necessary equipment to provide services provided to disabled persons; and

(b) access to an adequate supply of potable water, including hot water either at the mobile unit or available at locations served by the mobile unit;

(8)(a) All examinations conducted as part of the operation of a mobile unit must be performed by an optometrist who is licensed to practice optometry in this State. All glasses fitted and dispensed as part of the operation of a mobile unit must be fitted and dispensed by an optician licensed in this State.

(b) The operator of the mobile unit shall identify and advise the board in writing within thirty days of any personnel change relative to all licensed optometrists associated with the mobile unit by providing the full name, address, telephone numbers, and license numbers where applicable.

(c) The operator shall advise the board in writing within thirty days of any change in the written procedure for emergency follow‑up care for patients treated in the mobile unit.

(d) An optometrist providing services in the mobile unit prominently shall display his license to practice in this State in plain view of patients.

(9)(a) An operator of a mobile unit shall maintain a confidential written or electronic record detailing each location where services are provided, including:

(i) the street address of the service location;

(ii) the dates and times of each session; and

(iii) the number of patients served.

(b) All confidential written or electronic records required to be maintained by this chapter or applicable regulations shall be made available to the board within ten days of a request by the board, subject to HIPPA and FERPA privacy protections. Costs for such records must be covered by the mobile unit operator.

(10) Optometric services provided on a mobile unit must be in the charge of an optometrist licensed to practice optometry in this State at all times.

(11)(a) Upon cessation of operation by the mobile unit, the operator shall notify the board in writing within thirty days of the last day of operations of the final disposition of patient records and charts.

(b) Upon choosing to discontinue a practice or services in a community, the operator of a mobile unit shall:

(i) notify all of the operator’s active patients in writing that the operator intends to discontinue the mobile unit’s practice in the community;

(ii) encourage the patients to seek the services of another optometrist; and

(iii) make reasonable arrangements with all active patients for the transfer of the patient’s records to the patient or a succeeding practitioner.

(c) As used in this subsection, ‘active patient’ refers to a person whom the mobile unit has examined, treated, cared for, or otherwise consulted with during the two‑year period prior to discontinuation of practice, or moving from or leaving the community.

(12) The board shall adopt rules and regulations regarding the registration, administration, and operation of mobile units as may be necessary to carry out the provisions of this subsection, and may amend, modify, and repeal any rules and regulations from time to time. Failure to comply with any statutes, regulations, or board policies governing the practice of optometry and the operation of a mobile unit may subject the mobile unit and any optometrists providing services through the mobile unit to disciplinary action by the board, including suspension or revocation of the optometrist’s license or revocation of the mobile unit permit. However, a licensed optometrist providing services through a mobile unit shall not be subject to disciplinary action on the sole basis that the licensed optometrist has prescribed eyeglasses without dilating the patient’s eye where the following provisions are satisfied:

(a) the operator of the mobile unit is a not‑for‑profit organization providing services at a Title 1 public school; and

(b) the optometrist practicing in the mobile unit shall:

(i) provide an appropriate eye examination prior to diagnosing, treating, and/or prescribing eyeglasses to the patient;

(ii) when providing an appropriate eye examination pursuant to this subsection that does not necessarily require dilation of the eye, employ technology sufficient to accurately study the health of the eye in order to prescribe eyeglasses to the patient, provided that the prescription for eyeglasses is not based solely on the refractive eye error of the human eye or is generated by a kiosk;

(iii) not prescribe eyeglasses to the patient and provide a referral to another licensed optometrist or ophthalmologist for follow‑up care, if the eye examination reveals to the optometrist that a more comprehensive examination is necessary prior to prescribing eyeglasses. Any licensed optometrist performing a comprehensive eye examination of a patient referred under this subsection shall conduct a comprehensive eye exam, including dilation of the eyes; and

(iv) if a patient is referred to the optometrist or ophthalmologist with a prescription issued by another licensed optometrist or physician that has conducted a comprehensive eye examination of the patient, provide eyeglasses to the referred patient according to the prescription issued by the referring licensed optometrist or ophthalmologist.”

SECTION 3. This act takes effect upon approval by the Governor.

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