

BILL SUMMARY
1st Session of the 57th Legislature

Bill No.:	SB 100
Version:	Committee Substitute
Request Number:	8777
Author:	David (S), Newton (H)
Date:	4/15/2019
Impact:	None

Research Analysis

The CS to SB 100 allows for optometrists to rent space near or within a retail store for the purpose of engaging in optometry services. The measure states that rental of a separate space within or next to a retail store by a licensed optometrist to practice optometry, regardless of whether or not the retail store derives income from the sale of prescription optical goods, shall not be considered unprofessional or unethical conduct by the Board of Examiners in Optometry. The measure adds the OSU College of Osteopathic Medicine and optometrists practicing in a rented space within a retail store to the list of exempt institutions from the provision prohibiting optometrists from engaging in optometry services outside of their official role as an optometrist.

The measure allows retail stores to rent to optometrists, and specifies conditions of the rental property. Specifically, the area of the practice of optometry must be separate from the area of other occupants and the entrance to the area for the practice of optometry must be accessible by the public. No lease between a retail store and optometrist may contain provisions requiring certain hours of operation or allowing reduction of rent based on revenue of the optometrist. The measure allows retail stores to sell optical goods, appliances, or materials, regardless of whether an optometrist practices optometry in the store.

The measure provides requirements for assessment mechanisms, such as applications or other Internet-based technologies, used to conduct eye examinations. Assessment mechanisms must provide interaction between the patient and licensed physician, collect patient's medical history and previous prescriptions, provide applicable accommodation, protect health information in compliance with the Health Insurance Portability and Accountability Act (HIPAA), be used to perform a procedure with a Current Procedural Terminology code, and maintain liability insurance. Physicians may only utilize an assessment mechanism for patients over 18 years old and who have been examined in-person within the last year.

The measure creates requirements for physicians utilizing assessment mechanisms. Patients must accept a disclosure prior to use stating that the assessment mechanism is not a replacement for an in-person eye examination, cannot be used for initial or follow-up prescription generation for contact lenses, and may only be used for glasses prescription generation if the patient has had an in-person eye examination within the last year.

The measure creates requirements for contact lens and visual glasses prescriptions, requiring the inclusion of certain information. Contact lens prescriptions shall be valid for a minimum of 12 months from prescription date or date of contact lens evaluation by physician, whichever is later. The measure requires verification processes of contact lens sellers of prescription, including verification in writing, in electronic format, or orally. The measure specifies requirements for

oral verification via telephone. The seller shall be solely responsible for the delivery of contact lenses/glasses. The measure creates requirements for contact fittings.

The measure prohibits the sale and delivery of contact lenses by an outside seller/provider unless the patient has an address registered with the Oklahoma Attorney General and is in possession of a valid prescription. The measure requires all contact lens sellers located outside the state selling to Oklahoma residents to annually register with the Oklahoma Attorney General and provides requirements for registration, including a fee. Any dispenser violating the Consumer Protection in Eye Care Act or administrative rules promulgated by the Oklahoma Attorney General must pay a civil penalty to the Oklahoma Attorney General not exceeding \$11,000 per violation. Charged dispensers shall be entitled to a hearing and a right to appeal.

This act shall be applicable to:

- Counties with a population of 300,000+ for the period November 1, 2019 through October 31, 2024
- Counties with a population of 200,000+ for the period November 1, 2024 through October 31, 2029
- Counties with a population of 100,000+ for the period November 1, 2029 through October 31, 2036
- Counties with a population of 50,000+ for the period November 1, 2036 through October 31, 2042
- All counties thereafter

The measure states that an optometrist is not required to participate in a vision care plan as a condition for entering into a contract with a carrier for the provision of medically necessary physician services. Unless optometry services are covered by the carrier, no contract between a carrier and an optometrist may set or limit a fee for the services. An optometrist may not charge more for non-covered services than an enrollee's customary rate for those services. Lastly, no contract between a carrier and optometrist may limit the optometrist's choice of suppliers of services or materials.

The measure repeals measures prohibiting the practice of optometry within or near a retail store and prohibiting the sale of optical goods in a retail store whose income is not mainly derived by the sale of optical goods.

Prepared By: Anna Rouw

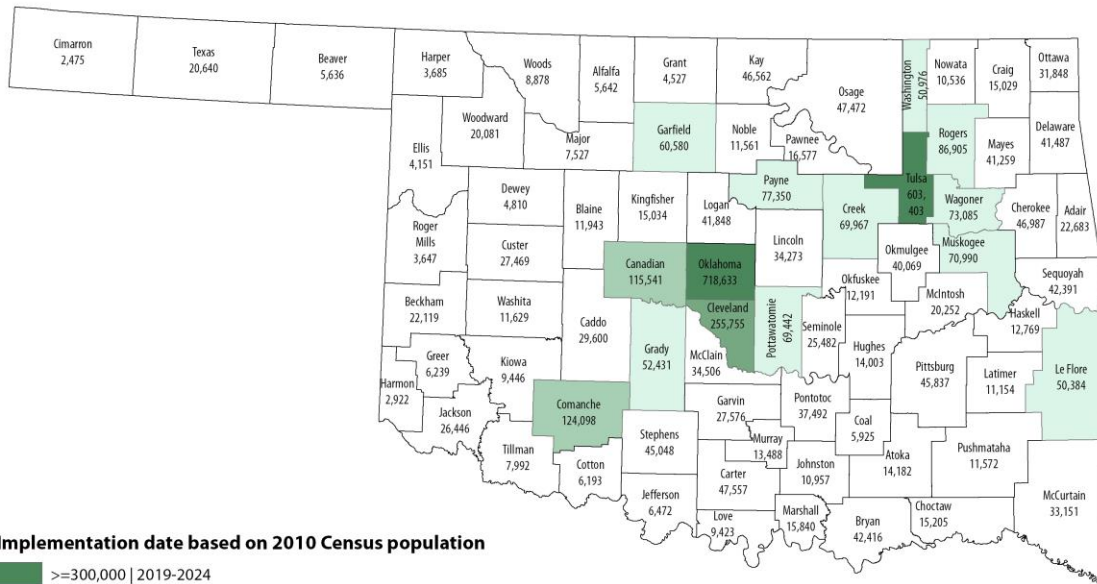
Fiscal Analysis

SB 100 has no fiscal implications to the state.

Prepared By: Stacy Johnson

Other Considerations

SB 100 | Optometrists in a Retail Store



Implementation date based on 2010 Census population

- >=300,000 | 2019-2024
- 130,000 - 299,999 | 2024-2029
- 100,000 - 129,999 | 2029-2036
- 50,000 - 99,999 | 2036-2042
- <= 49,999

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