

SB 1386

Branch Office Law Changes

Governor Jerry Brown signed into law SB 1386, expanding the number of offices allowed in California.

Here are the details:

	Current Law	New Law <small>(effective Jan. 1, 2019)</small>
Cap on number of offices 	No cap on the number of offices allowed. However, the time requirement effectively allows for only two offices.	Prohibits an optometrist, or two or more optometrists jointly, from having more than 11 offices. This cap does not apply to IPAs.
Time requirement 	Requires optometrists to be in personal attendance at each of his or her offices 50 percent of the time during which the office is open for the practice of optometry.	None.
Registration requirement 	Requires optometrists to pay a fee and obtain a branch office license from the State Board of Optometry if the optometrist owns more than one office.	No longer requires optometrists to obtain a branch office license. Optometrists must still obtain a statement of licensure for all additional office locations.
Failure to comply 	License suspension.	License suspension.

This bill takes effect January 1, 2019.

For any questions regarding SB 1386, please contact Kristine Shultz at kshultz@coavision.org

COA amendments to protect doctors:

COA did not support this measure. After months of negotiations, COA secured amendments that limit the number of offices and protect optometrists from being singled out for increased scrutiny and disciplinary actions. COA amendments include:

- Optometrists, whether as an individual or a group, will be limited to owning 11 offices total.
- A requirement for optometrists to report to the SBO disciplinary action they take against an employee was removed from the bill.
- An onerous new evidentiary standard was removed from the bill which would have allowed the SBO to take enforcement action if the doctor “should have known” they were helping an employee violate the law. The existing standard required is that the SBO must prove the optometrist knew the employee was violating the law.
- A new reference to the standard of care was removed from the bill.

COA's amendments are consistent with the direction given by COA's House of Delegates at its meeting earlier this year. The amendments allow a modest expansion of the current, two-office limit, without opening up the law to allow an unlimited number of offices.

Background:

In recent years, the SBO has come to the conclusion that the restriction on allowing optometrists to have multiple offices is overly burdensome with no direct benefit for consumers. Other healing arts licensees possess the ability to own any number of offices under their license. Meanwhile, the existing branch office limit effectively ties the hands of optometrists who wish to open a number of locations under their license, and this can result in less access to care in rural areas where few optometrists are likely to locate their primary office. Many believe that forming group practices may make it easier for private practice optometrists to join health plan medical provider panels.

There has been concern from many in the optometric community, however, that completely eliminating the limit on how many offices an optometrist can have would be problematic. Some doctors believe that allowing one optometrist to open a large number of offices would distance the licensed optometrist's professional judgment and accountability for licensed activities taking place under their auspices as the optometrist whose license is connected to the office spends very little time practicing there. The concern is that if a single optometrist could maintain an ownership interest in an unlimited number of offices, this could potentially lead to full corporatization of optometry, in which optometrist-owners run massive chains of optometry offices in a way that cannot be distinguished from a retail model of services.

The solution reached in this bill is to replace the restrictive branch office license requirement with a less stringent allowance for an optometrist or several partnered optometrists to maintain multiple offices, with a cap placed at 11 total offices. The intent of the author is to modernize how optometrists may maintain multiple offices without creating optometric empires resembling retail chains.