

TITLE 16. BOARD OF OPTOMETRY

NOTICE IS HEREBY GIVEN that the Board of Optometry (hereafter “Board”) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments in writing relevant to the action proposed. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice must be received by the Board at its office not later than 5:00 p.m. on August 2, 2010 or must be received by the Board at the hearing.

A hearing in this matter has been scheduled for August 2, 2010 from 10:00 a.m. to 12:00 p.m., in the Yosemite Room, at 2420 Del Paso Road, Sacramento, California 95834. All interested parties will be heard at that time.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text with the exception of technical or grammatical changes. The full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 3025, 3041.2, 3044, 3045, 3053, 3054, 3057, 3078, 3152, and 3163 of the Business and Professions Code, and to implement, interpret or make specific Sections 3041, 3041.2, 3044, 3045, 3053, 3054, 3057, 3078, 3152, and 3163 of said Code, the Board of Optometry is considering changes to Division 15 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

Pursuant to Business and Professions Code (BPC) section 3025 the Board may promulgate rules and regulations governing procedures of the Board, the admission of applicants for examination for certificates of registration as optometrists, and the practice of optometry. The Board is proposing the following:

Amend Section 1518. Fictitious or Group Names - To update sub-section (a) of the regulation by correcting the permit fee required to obtain a fictitious name permit from \$10 to \$50. Also to clarify that a permit is to be renewed annually on January 31 and that failure to renew in a timely manner will result in a \$25 delinquency fee.

Amend Section 1523. Licensure and Examination Requirements – To edit all sub-sections of the regulation for grammatical and style purposes. Also updates and clarifies information regarding licensure and examination requirements such as outdated forms incorporated by reference and name changes to exam titles.

Amend Section 1531. Licensure Examination – To edit all sub-sections of the regulation for grammatical and style purposes. Also updates and clarifies information regarding the Board's licensure examinations.

Amend Section 1532. Re-Examination - To update and clarify information regarding additional re-examination of sections of the national examination and the Board's laws and regulations examination.

Amend Section 1533. Re-Scoring of Examination Papers - To edit the title of the regulation to "Re-Scoring of California Laws and Regulations Examination Papers" in order to specify the re-scoring of the Board's California Laws and Regulations Examination since the national exam is handled by the National Board of Examiners in Optometry.

Amend Section 1561. Topical Pharmaceutical Agents Usage – Purpose and Requirements – To reflect the current requirements for the usage of topical pharmaceutical agents. This regulation has not been updated since 1989 and the optometric scope of practice and education provided today far surpasses what this regulation currently requires.

FISCAL IMPACT ESTIMATES:

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Cost/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Sections 17500-17630 Require Reimbursement: None

Business Impact:

The Board of Optometry has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:
None

Impact on Jobs/New Businesses:

The Board of Optometry has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS:

1518

The Board of Optometry has determined that the proposed amendments of this regulation would have no effect on small businesses. The proposed amendments to the regulation are for clean-up purposes only and to clarify what is required of Fictitious Name holders.

1523

The Board of Optometry has determined that the proposed amendments of this regulation would have no effect on small businesses. The proposed amendments to the regulation are for clean-up purposes only and to clarify what is required of applicants.

1531

The Board of Optometry has determined that the proposed amendments of this regulation would have no effect on small businesses. The proposed amendments to the regulation are for clean-up purposes only and to clarify for applicants what the licensure examinations consist of.

1532

The Board of Optometry has determined that the proposed amendments of this regulation would have no effect on small businesses. The proposed amendments to the regulation are for clean-up purposes only and to clarify for applicants what would occur if an examination is not passed after five years. The addition of the clinical skills section of the national exam is necessary for the protection of the public, the Board's priority. An individual who cannot pass the national examination, which tests entry level knowledge and skills in the practice of optometry, especially after five years, should be re-tested as fully as possible to ensure that the Board is licensing a competent individual.

1533

The Board of Optometry has determined that the proposed amendments of this regulation would have no effect on small businesses. The proposed amendments are updating the regulation to inform applicants that the Board only has the authority to re-score its California Laws and Regulations Examination, not portions of the NBEO. That is the NBEO's responsibility, which was given to them by the Board in 1999.

1561

The Board of Optometry has determined that the proposed amendments of this regulation would have no effect on small businesses. The proposed amendments to the regulation are for clean-up purposes only and to make the regulation's information current.

CONSIDERATION OF ALTERNATIVES:

The Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposal described in this notice.

Any interested person may present written statements relevant to the above determinations to the Board of Optometry at the address referred to below.

INITIAL STATEMENT OF REASONS AND INFORMATION:

The Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL:

Copies of the exact language of the proposed regulations, and any document incorporated by reference, of the initial statement of reasons, and all of the information upon

which the proposal is based, may be obtained upon request from the Board of Optometry at 2420 Del Paso Road, Suite 255, Sacramento, California 95834, or from the Board of Optometry web-site at www.optometry.ca.gov.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE:

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection, by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Web-site listed below.

CONTACT PERSON:

Any inquiries or comments concerning the proposed rulemaking action may be Addressed to:

Name: Andrea Leiva
Address: 2420 Del Paso Road, Suite 255
Sacramento, CA 95834
Telephone Number: (916) 575-7182
Fax Number: (916) 575-7292
E-mail Address: andrea_leiva@dca.ca.gov

The backup contact person is:

Name: Mona Maggio
Executive Officer
Address: 2420 Del Paso Road, Suite 255
Sacramento, CA 95834
Telephone Number: (916) 575-7176
Fax Number: (916) 575-7292
E-mail Address: mona_maggio@dca.ca.gov

Optometry Board web-site access: Information regarding this proposal can be found at www.optometry.ca.gov, click on "Laws and Regulations", then "Proposed Regulations".