

**TITLE 16. CALIFORNIA STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS**

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

**§ 1524, Fees
§ 1572, Immunization Certificate Applications**

NOTICE IS HEREBY GIVEN that the California State Board of Optometry (Board) is proposing to take the action described in the Informative Digest.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or the interested person's authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request, in writing, addressed to the individuals listed under "Contact Person" in this Notice.

WRITTEN COMMENT PERIOD

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 Tuesday, April 13, 2021, or must be received by the Board at the hearing.

The Board, upon its own motion or at the request 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 or oral 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 Business and Professions Code (BPC) section 3025, the Board proposes to implement, interpret or make specific BPC section 3152 in amending section 1524 of Division 15 of Title 16 of the California Code of Regulations (CCR), and implement, interpret or make specific BPC section 3041 in adopting section 1572 of Division 15 of Title 16 of the CCR.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board currently regulates approximately 8,400 optometrists and 4,200 dispensing opticians. BPC 3010.1 provides that protection of the public is the highest priority for the Board in exercising its licensing, regulatory and disciplinary functions. BPC section 3025 authorizes the Board to make rules and regulations governing procedure of the Board, the admission of applicants for examination for an optometry license, and the practice of optometry.

The purpose of this proposal is to implement changes enacted by Assembly Bill 443 (Salas, Chapter 549, Statutes of 2017) (AB 443). Effective January 1, 2018, AB 443 amended BPC section 3041, which defines the scope of practice for optometrists. Section 3041(g) authorizes an optometrist who is certified to use therapeutic pharmaceutical agents (TPA) to administer immunizations provided the optometrist meets certain requirements. Senate Bill 762 (Hernandez, Chapter 330, Statutes of 2018) (SB 762), effective September 10, 2018, provides that immunization training programs may also be endorsed by the Accreditation Council for Pharmacy Education.

Under BPC section 3041(g)(2), “immunization” means the administration of immunizations for influenza, herpes zoster virus, and pneumococcus in compliance with individual Advisory Committee on Immunization Practices (ACIP) vaccine recommendations published by the Centers for Disease Control and Prevention (CDC) for persons 18 years of age or older.

The Board proposes the following changes:

Amend Section 1524, Fees

Existing law establishes, among other things, various fees for licensure and renewal of certificates of registrations for optometrists. This proposal would establish a \$50 application fee for an immunization certification for an optometrist.

Adopt Section 1572, Immunization Certificate Applications

Existing law authorizes an optometrist who is certified to use TPAs to administer immunizations provided the optometrist meets certain statutory requirements and applies for an immunization certificate on a Board-approved form.

This proposal would establish a regulation stating the fee for the application and the information an applicant must submit to obtain an immunization certificate.

ANTICIPATED BENEFITS OF PROPOSAL:

This proposal will enhance public protection by allowing TPA-certified optometrists who meet all proposed requirements to be registered with the Board in order to provide specified immunizations. This proposal will offer patients additional means to get vaccinated and make it more convenient for them to do so, particularly in rural areas where primary care doctors are scarce.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS:

During the process of developing these regulations and amendments, the Board has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

There are no costs or savings in federal funding to the state, and there are no costs or savings to any state agency except the Board as follows. The Board estimates 500 optometry licensees will initially opt for the immunization certification in the first year of implementation and 100 per year annually thereafter.

The Board estimates costs of approximately \$55 per application. The Board notes projected initial processing costs of \$55 exceed the statutory maximum fee level of \$50 per certificate. An Office Technician (OT) will take approximately 45 minutes per application to perform any registration workload with total costs estimated as laid out in the 'AB 443 Registration Workload and Costs' table contained in the Board's Initial Statement of Reasons. As a result, the proposed regulatory fee amount is set at the statutory maximum of \$50. The additional cost of \$5 per application over the statutory maximum would be absorbable by the Board.

Applicants will be required to pay a one-time registration fee of \$50 to the Board, which will generate revenues ranging from \$25,000 in year one to \$5,000 per year ongoing and up to \$70,000 over a ten-year period as laid out in the 'AB 443 Registration Revenues' table contained in the Board's Initial Statement of Reasons.

Nondiscretionary Costs/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 has determined that the proposed amendment to section 1524 and adoption of section 1572 will not have a significant, statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The proposed regulations affect optometrist licensees only, not a business.

Cost Impact on Representative Private Person or Business:

The Board has determined that the proposed amendment to section 1524 and adoption of section 1572 will not have a cost impact on representative private person or business. The proposed regulations affect optometrist licensees only, not a business, and any fiscal impact would only be applicable to those licensees who choose to obtain the authorization and would be entirely voluntary.

Licensees who want to obtain an authorization for immunization certificate with the Board will be required to complete an immunization training course, which meets the requirements of BPC section 3041. These courses cost up to \$800, in addition to the fee of \$50 for registering with the Board. The Board estimates a licensee applying to obtain immunization authorization would incur total one-time costs of up to \$850.

The Board estimates 500 licensees will initially apply for registration in year one of implementation and 100 per year annually thereafter. Registration costs are estimated to range from \$425,000 in year one to \$85,000 per year ongoing and up to \$1.19 million over a ten-year period.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulations would not affect small businesses, since the proposed regulations affect optometrist licensees only, not businesses.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

The Board has determined that this regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because the proposed regulations establish a fee and a process for licensees to obtain a certification in administering immunizations. The Board does not anticipate that this certification will create or eliminate jobs.
- It will not create new business or eliminate existing businesses within the State of California because the proposed regulations establish a fee and a process for

licensees to obtain a certification in administering immunizations. The Board does not anticipate that this certification will create new businesses or eliminate existing businesses.

- It will not affect the expansion of businesses currently doing business within the State of California because the proposed regulations establish a fee and a process for licensees to obtain a certification in administering immunizations. The Board does not anticipate that this certification will expand businesses.
- It benefits the health and welfare of California residents because it will require optometry licensees who wish to administer immunizations to obtain the proper training and subsequent certification with the Board, which increases access to care and immunizations while protecting the public.
- It does not affect worker safety because the proposed regulations are not related to worker safety.
- It does not affect the state's environment because the proposed regulations are not relevant to the state's environment.

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 be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

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, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from:

California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
916-575-7170
916-575-7292 fax

optometry@dca.ca.gov
www.optometry.ca.gov

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

All the information upon which the proposed regulations are 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.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Marc Johnson, Policy Analyst
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The backup contact person is:

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Website Access: Materials regarding this proposal can be found at
www.optometry.ca.gov