

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 July 11, 2011 or must be received by the Board at the hearing.

A hearing in this matter has been scheduled for July 11, 2011 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 144, 651, 3010.1, 3024, 3025 and 3025.5 of the Business and Professions Code, and to implement, interpret or make specific Sections 651, 3025, 3110, 3010.5 and 3125 of said Code, and Section 11105 of the Penal 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:

Amend sections 1513, 1514 and 1525.1.

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.

1513. Registered Name Only and

1514. Renting Space From and Practicing on Premises of Commercial (Mercantile) Concern

According to BPC section 651, it is unlawful for an optometrist to disseminate any information that is false or misleading in connection with their professional practice or business. Any person that violates this restriction is guilty of a misdemeanor which could result in the loss of their license to practice optometry.

The proposed amendments to the regulation are non-substantive and would further clarify the use of an optometrist's name in advertising and that signage is required a commercial/mercantile locations.

1525.1. Fingerprint Requirements

BPC section 144 requires the Board's licensees who have not been fingerprinted as a condition of licensure to furnish to the agency a full set of fingerprints for the purposes of conducting criminal history record checks by the Department of Justice and the Federal Bureau of Investigation

The proposed amendments to the regulation would further clarify which licensees are required to submit fingerprints during the license renewal process.

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: None

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.

There are no costs associated with the proposed regulatory action. The proposed amendments only clarify the fingerprint requirements that licensees need to meet in order to maintain their license in active status, and how a licensee must advertise in order to stay in compliance with the Board.

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:

The Board has determined that the proposed regulation would not affect small businesses. The proposed amendments to the regulation are only clarifying what is required of optometrists in order to remain in compliance with the Board.

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
Policy Analyst
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".