

## 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 16, 2010 or must be received by the Board at the hearing.

A hearing in this matter has been scheduled for August 16, 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 Section 3059 of the Business and Professions Code, and to implement, interpret or make specific Section 3059 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 changes:

Amend Title 16, CCR section 1536.

Sub-section (a) is amended for grammatical, style and clarity purposes. It is also amended to add the option of course work in optometric ethics. Currently, optometrists certified to use therapeutic pharmaceutical agents (TPA) are required to take 50 hours of CE every two years in order to renew their license. Thirty-five of the required fifty hours must be in the diagnosis, treatment and management of ocular disease. This new option to take a course in ethics would be part of the fifteen left over hours needed to complete the fifty hours of CE. Existing law states that licensees may take up to eight hours in patient care management. Board staff has found that adding an additional option to this requirement in sub-section (a) would be beneficial for the practice of optometry if the licensee chooses to do a few hours in ethics. Although it is not required, the licensee should have the option to choose a course in this subject matter.

Sub-section (b) is amended for grammatical, style and clarity purposes only.

Sub-section (c)(4) is added to the regulation to allow for the option of obtaining up to two CE credits for a full day's attendance at a Board meeting. Currently, very few, if any, licensees attend Board meetings. Board meetings can educate licensees about optometric issues which could affect their practice, as well as how the Board operates. The Board holds at least four

meetings a year at different sites throughout the state. This gives as many licensees as possible the opportunity to attend Board meetings. The licensees are made aware of public meetings approximately ten days prior to the meeting, or they may contact the Board for information. Again, this is another option that is not required, but should be made available. Not only would licensees earn two CE credits for attending, but they would have the opportunity to stay up to date on Board issues and actions, and have a voice on matters important to their profession. Two hours of CE were allotted for this option to allow for variety in a licensee's CE selections.

Sub-section (c)(5) is added to the regulation to allow licensees the opportunity to get up to four CE credits for receiving certification at a course in cardiopulmonary resuscitation (CPR) from the American Red Cross or the American Heart Association. Effective January 1, 2007, Senate Bill 579 (Aanestad, Chapter 302, Statutes of 2007) eliminated CPR certification as a condition for renewal of an optometric license. Thus, optometric licenses that expired on or after January 1, 2007 were no longer required to maintain a CPR certification. Although this course is no longer required, the Board feels this CE opportunity should be made available, since CPR is a vital skill for a health practitioner to have. Four hours were allotted for this option because CPR certification courses are typically a rigorous 10-13 hours. It would not be beneficial for licensee to have so many hours in one topic. The intent of adding a variety of CE options is to increase a licensee's knowledge to make them a more effective health practitioner, not simplify the accumulation of CE credits by allowing almost all credit hours to be obtained in one course.

Sub-sections (e)(1-3), (f), (g)(14), and (h)(1-8) are amended for grammatical, style and clarity purposes only.

Sub-section (h) is amended to allow the Board to recognize and utilize the Association of Regulatory Boards in Optometry's (ARBO) Optometric Education (OE) Tracker system as proof of continuing education. Existing law requires Board staff to request that licensees mail in hard copies of certificates of completion of CE courses. Often times this may result in additional, unnecessary paperwork for Board staff. Also, many optometrists lose their certificates of completion, making it difficult to obtain proof of attendance, consequently causing the hold of license renewals and potentially unneeded enforcement action.

ARBO's OE Tracker is designed to capture and verify optometrists' CE data for easy access by licensing Boards and optometrists. The information is stored in the secure ARBO database and can be retrieved by the licensing Boards to instantly track and audit the CE attendance of their licensees online. Benefits include:

- Verify CE attendance electronically;
- Save staff time by increasing efficiency;
- Reduce paperwork;
- Make CE auditing easier;
- Reduce CE reporting errors; and
- Eliminate the need for retention of paper CE certificates.

CE attendance data is only accepted and uploaded into OE Tracker if it is documented by the course administrator. To ensure the integrity of data, individual optometrists do not input CE hours themselves. The proposed acceptance of this tracking tool, which is free to Boards and licensees, will improve the Board's continuing education program.

Sub-section (i)(1) is amended for grammatical, style and clarity purposes only.

Sub-section (i)(2) is amended for grammatical, style and clarity purposes. It is also amended to allow the Board to provide extensions, at its discretion if good cause exists, to licensees who are unable to complete sufficient hours of CE. Existing law only allowed the Board to

completely exempt the licensee from the CE requirement if they were ill, incapacitated, or there was an unavoidable circumstance. Board staff has found that this is not practical and each situation should be handled on a case by case basis. Oftentimes, licensees only need more time to complete their full 50 hours of CE, and this proposal will give them the opportunity to do so.

Sub-sections (i)(3) and (j) is amended for grammatical, style and clarity purposes.

Sub-section (k) is completely removed since, effective January 1, 2007, Senate Bill 579 (Aanestad, Chapter 302, Statutes of 2007) eliminated CPR certification as a condition for renewal of an optometric license.

Note: Authority cited section is amended to remove section 3023.1. This statutory authority was repealed in 2004 and thus, no longer applies.

### **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:**

The Board has determined that the proposed regulation would no affect small businesses. The regulation is increasing continuing optometric education opportunities, but is not requiring them.

**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](http://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](mailto: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](http://www.optometry.ca.gov), click on "Laws and Regulations", then "Proposed Regulations".