

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

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING

**California Code of Regulations § 1536
Continuing Education: Purpose and Requirements**

NOTICE IS HEREBY GIVEN that the California State Board of Optometry (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

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 relevant to the action proposed, 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 no later than **5:00 p.m. on Wednesday, May 31, 2023**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) section 3059, and to implement, interpret, or make specific BPC section 3059, the Board is considering amending section 1536 of Title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The California State Board of Optometry (Board) currently regulates approximately 9,200 optometrists and 4,200 dispensing opticians. BPC section 3010.1 provides 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 the procedure of the Board, the admission of applicants for examination for an optometry license, and the practice of optometry. BPC section 3059 authorizes the Board to adopt regulations that require, as a condition to the renewal thereof, all holders of licenses submit proof satisfactory to the Board they have

informed themselves of the developments in the practice of optometry since the original issuance of their licenses by pursuing one or more courses of study satisfactory to the Board or by other equivalent means. Section 3059 requires optometrists certified to use therapeutic pharmaceutical agents to complete 50 hours of continuing education (CE) every two years to renew their certificate. (Bus. & Prof. Code, § 3059, subd. (e).) Thirty-five of the required 50 hours of CE must be on the diagnosis, treatment and management of ocular disease. (*Ibid.*)

Existing law at section 1536 of Title 16 of the CCR establishes CE requirements for optometrists. The purpose of this proposal is to revise and update section 1536, which sets forth CE purposes and requirements for optometry licensees, as required by BPC section 3059. The Board has not updated this section since 2016, and many CE providers have since changed their approach to offering CE, including using the internet to offer courses. This mode of CE has been shown to save money for CE providers and licensees and increases licensees' access to CE. Additionally, with the COVID-19 pandemic, almost all courses that were previously taught in person have moved entirely online. This proposal seeks to clarify existing renewal requirements for licensees, improve processes for CE providers, further define the parameters of internet/self-study courses, set forth a process for registration of online courses with the Board, and revise a form incorporated by reference used by CE providers to register their classes for approval by the Board.

ANTICIPATED BENEFITS OF PROPOSAL:

The proposed amendments provide licensees with additional flexibility in completing their required CE by increasing the minimum permissible online CE and other categories in subdivision (c). The amendment will also benefit CE providers who will have increased flexibility in how they offer CE. This may encourage a broader array of CE offerings, which will enable optometrists to benefit in their education from more diverse course offerings.

EVALUATION OF 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.

INCORPORATION BY REFERENCE

Continuing Education Course Approval Application, Form CE-01, Rev. 8/22

DISCLOSURES REGARDING THIS PROPOSED ACTION:

FISCAL IMPACT ESTIMATES

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

The regulations do not result in a fiscal impact to the state.

The Board notes, minor revisions were incorporated into the existing CE Course Approval Application and completed within normal business operations at no additional costs to the Board.

The regulations do not result in costs or savings in federal funding to the state.

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 the proposed amendments to section 1536 will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. This initial determination is based upon the current industry practice of CE, which has trended towards completion of courses via the internet, which has shown to save money for both the CE provider and licensee and helps to increase access to a range of CE courses.

Additionally, public comments have been entirely supportive with no assertion of increased costs, only increased access for licensees. The current section has not been updated or revised since 2015, and almost all CE providers have changed their approach toward offering CE since then. Additionally, with the COVID-19 pandemic, almost all courses which were previously taught in person have moved entirely online.

Also, this proposal seeks to strengthen existing renewal requirements for licensees, improve processes for CE providers, further define what internet/self-study courses are, set forth which courses cannot be taken online and must be completed in person. All these proposed changes are administrative and are already performed by businesses as part of their normal work. Thus, this proposal would not result in an adverse impact on a business.

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.

The regulations increase the number of hourly CE credits available from 8 hours to 12 hours for participating as a subject matter expert, as specified. While this provision may result in a decrease in CE tuition costs for licensees, participation is optional and therefore no costs savings are being reported.

Effect on Housing Costs: None.

EFFECT ON SMALL BUSINESS

The Board has determined that the proposed amendments to section 1536 will not have a significant statewide adverse economic impact on small businesses. This initial determination is based upon the current industry practice of continuing education, which has trended towards completion of courses via the internet, which has shown to save money for both the CE provider and licensee and helps to increase access to a range of CE courses.

Additionally, public comments on this move have been entirely supportive with no discussion of increased costs, only increased access for licensees. The current section has not been updated or revised since 2015, and almost all CE providers have changed their approach toward offering CE since then. Additionally, with the COVID-19 pandemic, almost all courses which were previously taught in person have moved entirely online.

Also, this proposal seeks to strengthen existing renewal requirements for licensees, improve processes for CE providers, further define what internet/self-study courses are, set forth which courses cannot be taken online and must be completed in person. All these proposed changes are administrative and are already performed by businesses as part of their normal work. Thus, this proposal would not result in an adverse impact on a business.

BUSINESS REPORTING REQUIREMENTS:

The regulatory action does not require businesses to file a report with the Board.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS:

Impact on Jobs/Businesses:

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

It will benefit the health and welfare of California residents because the regulatory proposal strengthens existing renewal requirements for licensees which encourage a broader array of CE offerings that licensees can take, which in turn enhances the health and welfare of California residents who receive such treatment from the licensees in that such patients may benefit from the more diverse course offerings taken by licensees.

It will not have an impact on worker safety because these proposed amendments simply seek to strengthen existing renewal requirements for licensees, improve processes for CE providers, further define what internet/self-study courses are, set forth which courses cannot be taken online and must be completed in person. All these proposed changes are administrative and are already performed by businesses as part of their normal work.

It will not have an impact on the state's environment because these proposed amendments simply seek to strengthen existing renewal requirements for licensees, improve processes for CE providers, further define what internet/self-study courses are, set forth which courses cannot be taken online and must be completed in person. All these proposed changes are administrative and are already performed by businesses as part of their normal work

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), 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 a hearing if one is scheduled.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial

Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

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

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described in this Notice, 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, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written, or provide oral testimony if a hearing is requested, related to this proposal or who have requested notification of any changes to the proposal.

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 or by accessing the website listed below.

CONTACT PERSONS

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

Jonathan Gasca, Policy Analyst

California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
916-575-7170
optometry@dca.ca.gov

The backup contact person is:

Randy Love, Administration and Licensing Manager
California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834
916-575-7170
optometry@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation with modifications noted, as well as the Final Statement of Reasons when completed, and modified text ,if any, can be accessed through the Board's website at <https://www.optometry.ca.gov/lawsregs/propregs.shtml>