

**State of California
Office of Administrative Law**

In re:
Board of Optometry

Regulatory Action:

Title 16, California Code of Regulations

Amend sections: 1399.201, 1399.203,
1399.204, 1399.274

Repeal sections: 1508, 1508.2, 1508.3

**NOTICE OF APPROVAL OF CHANGES
WITHOUT REGULATORY EFFECT**

**California Code of Regulations, Title 1,
Section 100**

OAL Matter Number: 2019-0919-04

OAL Matter Type: Nonsubstantive (N)

This change without regulatory effect by the California State Board of Optometry (CSBO) repeals all existing regulations and incorporated forms regarding Sponsored Free Health Care Events because section 901 of the Business and Professions Code, which authorized the CSBO to adopt these regulations and forms, was repealed on January 1, 2018, by AB 512 (Stats. 2013, ch. 111). This change without regulatory effect also amends existing regulations regarding registered dispensing opticians to align with AB 684 (Stats. 2015, ch. 405), which transferred the program and all regulations from the Medical Board of California to the CSBO.

OAL approves this change without regulatory effect as meeting the requirements of California Code of Regulations, title 1, section 100.

Date: October 23, 2019

Eric Partington
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Jessica Sieferman, Executive
Officer

Copy: Marc Johnson

CALIFORNIA OPTOMETRY BOARD

SECTION 100 – CHANGES WITHOUT REGULATORY EFFECT

1. Delete Article 2.5 of Division 15 of Title 16 of the California Code of Regulations:

~~Article 2.5. Sponsored Free Health Care Events – Requirements for Exemption~~

~~§ 1508. Definitions.~~

~~For the purposes of Section 901 of the Code:~~

~~(a) “Community-based organization” means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.~~

~~(b) “Out-of-state practitioner” means a person who is not licensed in California to engage in the practice of optometry but who holds a current, active and valid license or certificate in good standing in another state, district, or territory of the United States to practice optometry.~~

~~(c) “In good standing” means that a person:~~

~~(1) Is not currently the subject of any investigation by any governmental entity or has not been charged with an offense for any act substantially related to the practice of optometry by any public agency.~~

~~(2) Has not entered into any consent agreement or been subject to an administrative decision that contains conditions placed by an agency upon the person's professional conduct or practice, including any voluntary surrender of license; or,~~

~~(3) Has not been the subject of an adverse judgment resulting from the practice of optometry that the Board determines constitutes evidence of a pattern of incompetence or negligence.~~

~~Note: Authority cited: Sections 901 and 3025, Business and Professions Code.~~

~~Reference: Section 901, Business and Professions Code.~~

~~§1508.1. Sponsoring Entity Registration and Recordkeeping Requirements.~~

~~(a) Registration. A sponsoring entity that wishes to provide, or arrange for the provision of, health care services at a sponsored event under section 901 of the Code shall register with the Board not later than 90 calendar days prior to the date on which the sponsored event is scheduled to begin. A sponsoring entity shall register with the Board by submitting to the Board a completed “Registration of Sponsoring Entity under Business and Professions Code Section 901,” Form 901-A (DCA/2016-revised), which is hereby incorporated by reference.~~

~~(b) Determination of Completeness of Form. The Board may, by resolution, delegate to the Department of Consumer Affairs the authority to receive and process “Registration of Sponsoring Entity under Business and Professions Code Section 901,” Form 901-A (DCA/2016-revised) on behalf of the Board. The Board or its delegatee shall inform the sponsoring entity in writing within 15 calendar days of receipt of Form 901-A~~

~~(DCA/2016-revised) that the form is either complete and the sponsoring entity is registered or that the form is deficient and what specific information or documentation is required to complete the form and be registered. The Board or its delegatee shall reject the registration if all of the identified deficiencies have not been corrected at least 30 days prior to the commencement of the sponsored event.~~

~~(c) Recordkeeping Requirements. Regardless of where it is located, a sponsoring entity shall maintain at a physical location in California a copy of all records required by Section 901 as well as a copy of the authorization for participation issued by the Board to an out-of-state practitioner. The sponsoring entity shall maintain these records for a period of at least five (5) years following the provision of health care services. The records may be maintained in either paper or electronic form. The sponsoring entity shall notify the Board at the time of registration as to the form in which it will maintain the records. In addition, the sponsoring entity shall keep a copy of all records required by Section 901(g) of the Code at the physical location of the sponsored event until that event has ended. These records shall be available for inspection and copying during the operating hours of the sponsored event upon request of any representative of the Board. In addition, the sponsoring entity shall provide copies of any record required to be maintained by Section 901 of the Code to any representative of the Board within 15 calendar days of the request.~~

~~(d) Notice. A sponsoring entity shall place a notice visible to patients at every station where patients are being seen by an optometrist. The notice shall be in at least 48-point type in Arial font and shall include the following statement and information:~~

NOTICE

~~Optometrists providing health care services at this health fair are either licensed and regulated by the California State Board of Optometry or hold a current valid license from another state and have been authorized to provide health care services in California only at this specific health fair.~~

~~For more information, or if you have a complaint or concern please contact the California State Board of Optometry at 1-916-575-7170; www.optometry.ca.gov.~~

~~(e) Requirement for Prior Board Approval of Out-of-State Practitioner. A sponsoring entity shall not permit an out-of-state practitioner to participate in a sponsored event unless and until the sponsoring entity has received written approval of such practitioner from the Board.~~

~~(f) Report. Within 15 calendar days following the provision of health care services, the sponsoring entity shall file a report with the Board summarizing the details of the sponsored event. This report may be in a form of the sponsoring entity's choosing, but shall include, at a minimum, the following information:~~

~~(1) The date(s) of the sponsored event;~~

~~(2) The location(s) of the sponsored event;~~

~~(3) The type(s) and general description of all health care services provided at the sponsored event; and~~

~~(4) A list of each out-of-state practitioner granted authorization pursuant to this article who participated in the sponsored event, along with the license number of that practitioner.~~

Note: Authority cited: Sections 901 and 3025, Business and Professions Code.
Reference: Section 901, Business and Professions Code.

~~§ 1508.2. Out-of-State Practitioner Authorization to Participate in Sponsored Event.~~

~~(a) Request for Authorization to Participate. An out-of-state practitioner ("applicant") may request authorization from the Board to participate in a sponsored event and provide such health care services at the sponsored event as would be permitted if the applicant were licensed by the Board to provide those services. Authorization shall be obtained for each sponsored event in which the applicant seeks to participate.~~

~~(1) An applicant shall request authorization by submitting to the Board a completed "Request for Authorization to Practice Without a California License at a Sponsored Free Health Care Event," Form 901-B (OPT/2011), which is hereby incorporated by reference, accompanied by a non-refundable and non-transferable processing fee of \$40.00.~~

~~(2) The applicant shall also furnish either a full set of fingerprints or submit a Live Scan inquiry to establish the identity of the applicant and to permit the Board to conduct a criminal history record check. The applicant shall pay any costs for furnishing the fingerprints and conducting the criminal history check. This requirement shall apply only to the first application for authorization that is submitted by the applicant.~~

~~(b) Response to Request for Authorization to Participate. Within 20 calendar days of receiving a completed request for authorization, the Board shall notify the sponsoring entity or local government entity and the applicant whether that request is approved or denied.~~

~~(c) Denial of Request for Authorization to Participate.~~

~~(1) The Board shall deny a request for authorization to participate if:~~

~~(A) The submitted Form 901-B (OPT/2011) is incomplete and the applicant has not responded within seven (7) calendar days to the Board's request for additional information; or~~

~~(B) The applicant has not graduated from an accredited school or college of optometry approved or recognized by the Board; or~~

~~(C) The applicant does not possess a current, active and valid license in good standing as defined in Section 1508; or~~

~~(D) The applicant has failed to comply with a requirement of this article or has committed any act that would constitute grounds for denial under Section 480 of the Code of an application for licensure by the Board; or~~

~~(E) The Board has been unable to obtain a timely report of the results of the criminal history check.~~

~~(2) The Board may deny a request for authorization to participate if:~~

~~(A) The request is received less than 20 calendar days before the date on which the sponsored event will begin; or~~

~~(B) The applicant has been previously denied a request for authorization by the Board to participate in a sponsored event; or~~

~~(C) The applicant has previously had an authorization to participate in a sponsored event terminated by the Board.~~

~~(D) The applicant has participated in three (3) or more sponsored events during the 12 month period immediately preceding the current application.~~

~~(d) Appeal of Denial. An applicant requesting authorization to participate in a sponsored event may appeal the denial of such request by following the procedures set forth in section 1508.3.~~

~~(e) Notice. An out-of-state practitioner who receives authorization to practice optometry at a sponsored event shall place a notice visible to patients at every station at which that person will be seeing patients. The notice shall be in at least 48 point type in Arial font and shall include the following statement and information:~~

~~NOTICE~~

~~I hold a current valid license to practice optometry in a state other than California. I have been authorized by the California State Board of Optometry to provide health care services in California only at this specific health fair.~~

~~California State Board of Optometry~~

~~916-575-7170~~

~~www.optometry.ca.gov~~

~~Note: Authority cited: Sections 144, 901 and 3025, Business and Professions Code.~~

~~Reference: Sections 144, 480 and 901, Business and Professions Code.~~

~~§ 1508.3. Termination of Authorization and Appeal~~

~~(a) Grounds for Termination. The Board may terminate an out-of-state practitioner's authorization to participate in a sponsored event for any of the following reasons:~~

~~(1) The out-of-state practitioner has failed to comply with any applicable provision of this article, or any applicable practice requirement or regulation of the Board.~~

~~(2) The out-of-state practitioner has committed an act that would constitute grounds for discipline if done by a licensee of the Board.~~

~~(3) The Board has received a credible complaint indicating that the out-of-state practitioner is unfit to practice at the sponsored event or has otherwise endangered consumers of the practitioner's services.~~

~~(b) Notice of Termination. The Board shall provide both the sponsoring entity or local government entity and the out-of-state practitioner with a written notice of the termination, including the basis for the termination. If the written notice is provided during a sponsored event, the Board may provide the notice to any representative of the sponsored event on the premises of the event.~~

~~(c) Consequences of Termination. An out-of-state practitioner shall immediately cease his or her participation in a sponsored event upon receipt of the written notice of termination.~~

~~Termination of authority to participate in a sponsored event shall be deemed a disciplinary measure reportable to the national practitioner data banks. In addition, the Board shall provide a copy of the written notice of termination to the licensing authority of each jurisdiction in which the out-of-state practitioner is licensed.~~

~~(d) Appeal of Termination. An out-of-state practitioner may appeal the Board's decision to terminate an authorization in the manner provided by section 901(j)(2) of the code.~~

~~The request for an appeal shall be considered a request for an informal hearing under the Administrative Procedure Act.~~

~~(e) Informal Conference Option. In addition to requesting a hearing, the out-of-state practitioner may request an informal conference with the Executive Officer regarding the reasons for the termination of authorization to participate. The Executive Officer shall, within 30 days from receipt of the request, hold an informal conference with the out-of-state practitioner. At the conclusion of the informal conference, the Executive Officer or his or her designee may affirm or dismiss the termination of authorization to participate. The Executive Officer shall state in writing the reasons for his or her action and mail a copy of his or her findings and decision to the out-of-state practitioner within 10 days from the date of the informal conference. The out-of-state practitioner does not waive his or her request for a hearing to contest a termination of authorization by requesting an informal conference. If the termination is dismissed after the informal conference, the request for a hearing shall be deemed to be withdrawn.~~

~~Note: Authority cited: Sections 901 and 3025, Business and Professions Code. Reference: Section 901, Business and Professions Code.~~

2. Amend Header of Division 13.5 of Title 16 of the California Code of Regulations:

Division 13.5. Registered Dispensing Opticians of the Medical Board of California
California State Board of Optometry

3. Amend §1399.201 of Article 1 of Division 13.5 of Title 16 of the California Code of Regulations:

§ 1399.201. Location of Principal Office.

~~The principal office of the Medical Board of California~~ California State Board of Optometry for the purpose of the administration of the registered dispensing optician program is located at ~~1430 Howe Avenue,~~ 2450 Del Paso Road, Suite 105, Sacramento, California ~~95834~~ 95825.

~~Note: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2554, Business and Professions Code.~~

4. Amend §1399.203 of Article 1 of Division 13.5 of Title 16 of the California Code of Regulations:

§1399.203. Definitions.

For the purposes of the regulations contained in this Chapter, the term:

(a) "Board" means the ~~Medical Board of California~~ California State Board of Optometry.

(b) "Division" means the ~~Division of Licensing of the Medical Board of California~~ California State Board of Optometry.

[(c)...(f)]

(g) "Physician and Surgeon" means a physician and surgeon, holding a valid certificate issued by the Medical Board of California to practice medicine in the State of California.

[(h)]

Note: Authority cited: Section 2558, Business and Professions Code. Reference: Sections 2550, 2552 and 2558, Business and Professions Code.

5. Amend §1399.204 of Article 1 of Division 13.5 of Title 16 of the California Code of Regulations:

§ 1399.204. Delegation of Functions.

Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act (Section 11500 et seq. of the Government Code), the division delegates and confers upon the executive ~~director~~ officer of the board, ~~or in his or her absence, the chief of licensing,~~ or his or her designee, all functions necessary to the dispatch of business of the division in connection with investigative and administrative proceedings under the jurisdiction of the division.

Note: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2555, Business and Professions Code; and 11500, Government Code.

6. Amend §1399.274 of Article 7 of Division 13.5 of Title 16 of the California Code of Regulations:

§1399.274 (a) Definitions

As used in Sections 1399.275 through 1399.279, inclusive.

(a) "Chief of licensing" means the ~~chief of the licensing program~~ executive officer of the board, or his or her designee, ~~for the division.~~

Note: Authority cited: Sections 125.9 and 2558, Business and Professions Code. Reference: Sections 2550 and 2550.1, Business and Professions Code.



~~SPONSORED FREE HEALTH CARE EVENTS~~

~~REGISTRATION OF SPONSORING ENTITY UNDER BUSINESS & PROFESSIONS CODE SECTION 901~~

~~In accordance with California Business and Professions Code section 901(d), a non-government organization administering an event to provide health care services to uninsured and underinsured individuals at no cost, may include participation by certain health care practitioners licensed outside of California if the organization registers with the California licensing authorities having jurisdiction over those professions. This form shall be completed and submitted by the sponsoring organization **at least 90 calendar days prior to the sponsored event.** Note that the information required by Business and Professions Code section 901(d) must also be provided to the county health department having jurisdiction in each county in which the sponsored event will take place.~~

PART 1 – ORGANIZATIONAL INFORMATION

1. Organization Name: _____

2. Organization Contact Information (*use principal office address*):

Address Line 1 Phone Number of Principal Office

Address Line 2 Alternate Phone

City, State, Zip Website

County

— Organization Contact Information in California (*if different*):

Address Line 1 Phone Number

Address Line 2 Alternate Phone

City, State, Zip

County

3. Type of Organization:

Is the organization operating pursuant to section 501(c)(3) of the Internal Revenue Code? _____ Yes _____ No

If not, is the organization a community-based organization*?

____ Yes ____ No

Organization's Tax Identification Number _____

If a community based organization, please describe the mission, goals, and activities of the organization (*attach separate sheet(s) if necessary*): _____

* A "community based organization" means a public or private nonprofit organization that is representative of a community or a significant segment of a community, and is engaged in meeting human, educational, environmental, or public safety community needs.

PART 2 – RESPONSIBLE ORGANIZATION OFFICIALS

Please list the following information for each of the principal individual(s) who is the officer(s) or official(s) of the organization responsible for operation of the sponsoring entity.

Individual 1:

Name _____ Title _____

Address Line 1 _____ Phone _____

Address Line 2 _____ Alternate Phone _____

City, State, Zip _____ E-mail address _____

County _____

Individual 2:

Name _____ Title _____

Address Line 1 _____ Phone _____

Address Line 2 _____ Alternate Phone _____

City, State, Zip _____ E-mail address _____

County _____

Individual 3:

Name	Title
Address Line 1	Phone
Address Line 2	Alternate Phone
City, State, Zip	E-mail address
County	

(Attach additional sheet(s) if needed to list additional principal organizational individuals)

PART 3 – EVENT DETAILS

1. Name of event, if any: _____

2. Date(s) of event (not to exceed ten calendar days): _____

3. Location(s) of the event (be as specific as possible, including address):

4. Describe the intended event; including a list of all types of healthcare services intended to be provided *(attach additional sheet(s) if necessary)*: _____

5. Attach a list of all out-of-state health care practitioners who you currently believe intend to apply for authorization to participate in the event. The list should include the name, profession, and state of licensure of each identified individual.

___ *Check here to indicate that list is attached.*

Note:

- Each individual out-of-state practitioner must request authorization to participate in the event by submitting an application to the applicable licensing Board or Committee.
- The organization will be notified in writing whether authorization for an individual out-of-state practitioner has been granted.

This form, any attachments, and all related questions shall be submitted to:

Department of Consumer Affairs
Attn: Sponsored Free Health Care Events
Division of Programs and Policy Review
1625 North Market Blvd., Ste. S-308
Sacramento, CA 95834

Tel: (916) 574-7970
Fax: (916) 574-8613
E-mail: CRP2@dca.ca.gov

- I understand that I must maintain records in either electronic or paper form both at the sponsored event and for five (5) years in California, per the recordkeeping requirements imposed by California Business and Professions Code section 901 and the applicable sections of Title 16, California Code of Regulations, for the regulatory bodies with jurisdiction over the practice to be engaged in by out-of-state practitioners
- I understand that our organization must file a report with each applicable Board or Committee within fifteen (15) calendar days of the completion of the event.

I certify under penalty of perjury under the laws of the State of California that the information provided on this form and any attachments is true and current, and that I am authorized to sign this form on behalf of the organization:

Name Printed

Title

Signature

Date

PERSONAL INFORMATION COLLECTION, ACCESS AND DISCLOSURE

Disclosure of your personal information is mandatory. The information on this form is required pursuant to Business and Professions Code section 901. Failure to provide any of the required information will result in the form being rejected as incomplete. The information provided will be used to determine compliance with the requirements promulgated pursuant to Business and Professions Code section 901. The information collected may be transferred to other governmental and enforcement agencies. Individuals have a right of access to records containing personal information pertaining to that individual that are maintained by the applicable Board or Committee, unless the records are exempted from disclosure by section 1798.40 of the Civil Code. An individual may obtain information regarding the location of his or her records by contacting the Division of Programs and Policy Review at the address and telephone number listed above.



STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834 P (916) 575-
7170 F (916) 575-7292 www.optometry.ca.gov



REQUEST FOR AUTHORIZATION TO PRACTICE WITHOUT A CALIFORNIA LICENSE AT A SPONSORED FREE HEALTH-CARE EVENT

In accordance with California Business and Professions Code Section 901 any optometrist licensed and in good standing in another state, district, or territory in the United States may request authorization from the California State Board of Optometry (Board) to participate in a free health care event offered by a local government entity or a sponsoring entity, registered with the Board under this Section, for a period not to exceed ten (10) days.

PART 1 - APPLICATION INSTRUCTIONS

Applicants must complete all parts of this form and enclose the following:

- A processing fee of \$40, made payable to the California State Board of Optometry. **Note:** If submitting fingerprint cards instead of using Live Scan, please submit an additional \$49 fee, payable to the California State Board of Optometry, to process your fingerprint cards for a total fee of \$89. The applicant must pay any costs for furnishing the fingerprints and conducting the criminal history record check. See additional information below.
- A copy of all valid and active licenses and/or certificates authorizing the applicant to practice optometry issued by any state, district, or territory of the United States.
- A letter of verification of license status from each state's Board of Optometry where the applicant is currently practicing.
- A copy of a valid photo identification of the applicant issued by one of the jurisdictions in which the applicant holds a license or certificate to practice.
- A copy of a valid transcript to prove you graduated from an accredited school or college of optometry that is approved or recognized by the Board.
- A full set of fingerprints or a Live Scan inquiry. This will be used to establish your identity and to conduct a criminal history record check. However, this requirement shall apply only to the first application for authorization that you submit.

Live Scan is only available in California for residents or visitors. A listing of California Live Scan sites can be found at <http://ag.ca.gov/fingerprints/publications/contact.htm>. Only Live Scan fingerprints completed in California can be accepted. You must fill out a *Request for Live Scan Service* form, which can be obtained from the Board's website at www.optometry.ca.gov.

Procedure: You must take the completed form to the service location, pay a fee and your fingerprints will be taken on a glass without ink. The fingerprints will then be transmitted electronically to the Department of Justice, who then forwards a report to the Board. There is a low rate of rejection with this method and it will take two days to complete.

4. Applicant's Employer: _____

Employer's Contact Information:

Address Line 1	Phone
Address Line 2	Facsimile
City, State, Zip	E mail address (if available)

5. Name and Location of school/college of optometry from which Applicant Graduated:

PART 3 – LICENSURE INFORMATION

1. Do you hold a valid current active license, in good standing issued by a state, district, or territory of the United States authorizing the unrestricted practice of optometry in your jurisdiction(s)?

No - If no, you are not eligible to participate as an out-of-state practitioner in the sponsored event.

Yes - If yes, list all current licenses, certificates, and registrations authorizing the practice of optometry in the following table. If there are not enough boxes to include all the relevant information, please attach an addendum to this form. **Please also attach a copy of each of your current licenses, certificates, and registrations.**

State/ Jurisdiction	Issuing Agency/Authority	License Number	Expiration Date

2. Have you ever had a license or certification to practice optometry revoked or suspended? ___ Yes ___ No

3. Have you ever been subject to any disciplinary action or proceeding by an applicable licensing body? ___ Yes ___ No

- ~~In accordance with Business and Professions Code Section 901(i), I will only practice within the scope of my licensure and/or certification and within the scope of practice for California-licensed optometrists.~~
- ~~I will provide the services authorized by this request and Business and Professions Code Section 901 to uninsured and underinsured persons only and shall receive no compensation for such services.~~
- ~~I will provide the services authorized by this request and Business and Professions Code Section 901 only in association with the sponsoring entity or local government entity listed herein and only on the dates and at the locations listed herein for a period not to exceed ten (10) calendar days.~~
- ~~I will provide a written notice to each patient or prospective patient prior to performing any services pursuant to California Code of Regulations, Title 16, Section 1508.2(e).~~
- ~~Practice of a regulated profession in California without proper licensure and/or authorization will subject me to potential administrative, civil and/or criminal penalties.~~
- ~~The Board may notify the licensing authority of my home jurisdiction and/or other appropriate law enforcement authorities of any potential grounds for discipline associated with my participation in the sponsored event.~~
- ~~All information provided by me in this application is true and complete to the best of my knowledge, and the Board may, at its discretion, audit and/or verify any information provided by me. By submitting this application and signing below, I am granting permission to the Board to perform such verification and background investigation pertaining to the information I have provided as the Board deems necessary.~~

~~**My signature on this application, or copy thereof, authorizes the National Practitioner Data Bank and the Federal Drug Enforcement Agency to release any and all information required by the California State Board of Optometry.**~~

 Signature _____ Date _____

Name Printed: _____

Note: Authorization will not be issued until clearance has been received from the California Department of Justice and the Federal Bureau of Investigation.

NOTICE OF COLLECTION OF PERSONAL INFORMATION

Disclosure of your personal information is mandatory. The information on this application is required pursuant to Title 16, California Code of Regulations Section 1508.3 and Business and Professions Code section 901. Failure to provide any of the required information will result in the form being rejected as incomplete or denied. The information provided will be used to determine compliance with Article 2.5 of Division 15 of Title 16 of the California Code of Regulations (beginning at Section 1508). The information collected may be transferred to other governmental and enforcement agencies. Individuals have a right of access to records containing personal information pertaining to that individual that are maintained by the

~~Board, unless the records are exempted from disclosure by Section 1798.40 of the Civil Code. Individuals may obtain information regarding the location of his or her records by contacting the Executive Officer at the Board at the address and telephone number listed above.~~