

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 13.5 and DIVISION 15

CALIFORNIA STATE BOARD OF OPTOMETRY
NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Fees

NOTICE IS HEREBY GIVEN that the California State Board of Optometry (CSBO or 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 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. by Tuesday, October 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 sections [2565](#), [2566](#), [2566.1](#), and [3152](#) of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections [2565](#), [2566](#), [2566.1](#), and [3152](#), the Board is considering amending sections [1399.260](#), [1399.261](#), and [1399.263](#) of title [16](#) and section [1524](#) of title [16](#) of the California Code of Regulations (CCR).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The California State Board of Optometry is a licensing board within the Department of Consumer Affairs. The Board regulates licensed optometrists, registered dispensing ophthalmic businesses, registered spectacle lens dispensers, and registered contact lens dispensers. California Business and Professions Code (BPC) section 3010.1 states that protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. Sections 3021 and 3025 of the BPC authorize the Board to adopt regulations as may be necessary to enable the Board to effectuate the practice of optometry and opticianry.

BPC 3145 establishes the Optometry Fund (Fund) and requires all fees deposited in the Fund and made available to the Board upon appropriation by the Legislature. BPC section 2567 requires all fees collected from the opticianry program to be deposited in the Fund and available to the Board upon appropriation.

BPC sections 2565, 2566, 2566.1 authorize the Board to set fees by regulation and sets forth the minimum and maximum fee ranges for application, initial registration, renewal, and delinquency for registered dispensing ophthalmic businesses, registered contact lens dispensers, and registered spectacle lens dispensers (collectively, opticianry). BPC section 3152 authorizes the Board to set fees by regulation and sets forth the minimum and maximum fee ranges for renewal for optometrists, and other miscellaneous fees such as application for continuing education course approval, and certain certifications.

The Board is seeking to increase the fees charged for application, initial registration, and renewal, and set the delinquency fee for opticianry applicants and seeking to increase the fees charged for renewal for optometry applicants, and miscellaneous fees associated with certifications and continuing education course approval. The fee increases are necessary to help alleviate the structural imbalance the Board currently faces and thus ensure the Board can meet its consumer protection goals.

Anticipated Benefits of Proposal

This regulatory proposal seeks to make amendments to the Board's fee schedule, which will help to reduce the Board's structural budget imbalance and to maintain a sufficient fund balance reserve until the Board can increase statutory fee levels to eliminate the structural imbalance.

The amendments will help to ensure the Board has sufficient funding to meet its consumer protection mandate and goals.

The Board has historically been able to operate within its existing budget. However, due primarily to recent increased licensing and enforcement workload and costs, the Board Members began considering options to stabilize the Board's budget at the August 25, 2022, Board meeting and voted unanimously to approve the proposed regulations at its May 12, 2023, Board meeting.

Immediate action to increase the regulatory fees collected by the Board is required. The fee increases will bolster the Board's revenues and funding available to continue the Board's daily functions, enforcement, and licensing operations without interruptions.

If this regulatory proposal is not adopted, the Board may need to restrict its core operations, including slowing its ability to process applications, restricting investigations, and limiting the Board's ability to adjudicate violations of the laws of optometry and opticianry in an expedient manner.

These restrictions to the operational functions of the Board could result in licensing backlogs and compromise the Board's ability to achieve its mission and statutory mandate of consumer protection.

This regulatory proposal will benefit the health and welfare of California residents because the proposal will increase the Board's revenue and funding available to continue the Board's enforcement, investigative, licensing, examination, and public outreach operations.

Evaluation of Consistency and Compatibility with Existing State Regulations

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

INCORPORATION BY REFERENCE

There are no forms or documents incorporated by reference.

DISCLOSURES REGARDING THIS PROPOSED ACTION

The Board has made the following initial determinations:

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 Board estimates the proposed regulations will increase revenues by approximately \$597,000 per year and help to reduce the structural imbalance.

Because the Board currently charges the fees in this proposal and/or performs workload associated with these programs and fees, no additional workload and costs are anticipated.

The Board estimates one-time information technology (IT) costs of \$3,000 to update cashiering and accounting software. Any IT costs will be absorbed within existing resources.

Nondiscretionary Costs/Savings to Local Agencies: None

Cost to any Local Agency or School District for which Government Code Sections 17500 - 17630 Require Reimbursement: None

Mandate Imposed on Local Agencies or School Districts: None.

Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard) None.

BUSINESS IMPACT ESTIMATES

The Board has made the 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.

Cost Impact on Representative Private Person or Business

The proposed regulations increase fees in section 1399.260 as follows:

Registered Dispensing Ophthalmic (business):

- Initial Application: Current \$150; Proposed \$200
- Initial Registration: Current \$200; Proposed \$300
- Biennial Renewal: Current \$200; Proposed \$300

The proposed regulations increase fees in section 1399.261 as follows:

Contact Lens Dispenser:

- Initial Application: Current \$150; Proposed \$200
- Initial Registration: Current \$200; Proposed \$300
- Biennial Renewal: Current \$200; Proposed \$300

The proposed regulations increase fees in section 1399.263 as follows:

Spectacle Lens Dispenser:

- Initial Application: Current \$150; Proposed \$200
- Initial Registration: Current \$200; Proposed \$300
- Biennial Renewal: Current \$200; Proposed \$300

The proposed regulations increase fees in section 1524 as follows:

Optometrist:

- Biennial Renewal: Current \$425; Proposed \$500

Application (various):

- Continuing Education Course Approval: Current \$50; Proposed \$100
- Glaucoma Certificate: Current \$35; Proposed \$50
- Lacrimal Irrigation & Dilation Certificate: Current \$25; Proposed \$50

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

The Board has made the 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.

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 or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because the proposed fees are anticipated to have minimal impact on businesses because the incremental fee increase is negligible compared to the average salary of licensees.

Benefits of Regulation:

This regulatory proposal will benefit the health and welfare of California residents because the proposal will increase the Board's revenue and funding available to continue the Board's enforcement, investigative, licensing, examination, and public outreach operations. The proposal is not anticipated to benefit worker safety or the state's environment.

Business Reporting Requirements

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

Effect on Small Business

The Board has determined that the proposed regulations may affect small businesses because this proposal will increase fees for individual licenses. The corporate practice of optometry is not prohibited, but is limited to owning only 11 locations, and some businesses may pay for or recoup the license fees of individual employees.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (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 submit comments to the Board in writing relevant to the above determinations at [2450 Del Paso Road, Suite 105, Sacramento, CA, 95834](#) during the written comment period, or at the hearing if one is scheduled or requested.

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 upon request from the Board, at [2450 Del Paso Road, Suite 105, Sacramento, CA 95834](#).

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 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, 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 comments or oral testimony 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:

Name: Gregory Pruden
Address: [California State Board of Optometry](#)
[2450 Del Paso Road, Suite 105, Sacramento, CA 95834](#)
Telephone No.: 916-574-7808
E-Mail Address: Gregory.Pruden@dca.ca.gov

The backup contact person is:

Name: Jonathan Gasca
Address: [California State Board of Optometry](#)
[2450 Del Paso Road, Suite 105, Sacramento, CA 95834](#)
Telephone No.: 916-244-6660
E-Mail Address: Jonathan.Gasca@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 regulations 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://optometry.ca.gov/lawsregs/propregs.shtml>