

**State of California
Office of Administrative Law**

In re:
Board of Optometry

NOTICE OF APPROVAL OF REGULATORY
ACTION

Regulatory Action:

Government Code Section 11349.3

Title 16, California Code of Regulations

OAL File No. 2010-0525-01 SR

Adopt sections: 1525, 1525.1, 1525.2

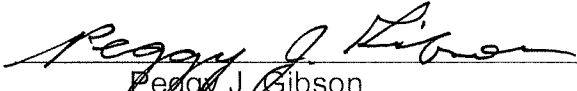
Amend sections:

Repeal sections:

This rulemaking adopts new article 5.1 with sections 1525, 1525.1 and 1525.2 in California Code of Regulations, Title 16 to require all licensees who have not previously submitted fingerprints to DOJ to complete a state and federal level criminal offender record information search through the DOJ before renewal of their license. This rulemaking also clarifies that prior to renewal a licensee has to disclose whether there has been any disciplinary action against them and if they have any criminal convictions during the renewal cycle.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 6/21/2010.

Date: 6/21/2010


Peggy J. Gibson
Staff Counsel

For: SUSAN LAPSLEY
Director

Original: Mona Maggio
Copy: Andrea Leiva

RESUBMITTAL

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW
NOTICE PUBLICATION/REGULATIONS SUBMISSION (See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2009-0616-02	REGULATORY ACTION NUMBER 2010-0525-01 SR	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only		2010 MAY 25 PM 4:21	
NOTICE		REGULATIONS	
AGENCY WITH RULEMAKING AUTHORITY Board of Optometry			AGENCY FILE NUMBER (if any)

ENDORSED FILED
IN THE OFFICE OF

2010 JUN 21 PM 3:05

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)	
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2009-#267	PUBLICATION DATE 6-26-2009	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Fingerprinting and Board Inquiry		1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) Notice# Z-2009-0616-02; Reg. Action#2010-0218-015	
2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)			
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 1525, 1525.1, 1525.2		
	AMEND		
	REPEAL		
3. TYPE OF FILING			
<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346) <input checked="" type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4) <input type="checkbox"/> Emergency (Gov. Code, §11346.1(b)) <input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute. <input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1) <input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h)) <input type="checkbox"/> File & Print <input type="checkbox"/> Other (Specify) _____ <input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100) <input type="checkbox"/> Print Only			
4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, 544 and Gov. Code §11347.1) April 8-23, 2010			
5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input type="checkbox"/> Effective 30th day after filing with Secretary of State <input checked="" type="checkbox"/> Effective on filing with Secretary of State <input type="checkbox"/> \$100 Changes Without Regulatory Effect <input type="checkbox"/> Effective other (Specify) _____			
6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660) <input type="checkbox"/> Fair Political Practices Commission <input type="checkbox"/> State Fire Marshal <input checked="" type="checkbox"/> Other (Specify) Brian Stiger, Director, Department of Consumer Affairs			
7. CONTACT PERSON Andrea Leiva, Policy Analyst		TELEPHONE NUMBER 916-575-7182	FAX NUMBER (Optional) 916-575-7292
		E-MAIL ADDRESS (Optional) andrea_leiva@dca.ca.gov	

8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Mona Maggio</i>	DATE 5.25.2010
TYPED NAME AND TITLE OF SIGNATORY Mona Maggio, Executive Officer	

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

JUN 21 2010

Office of Administrative Law

BOARD OF OPTOMETRY

ORDER OF ADOPTION

Adopt Sections 1525, 1525.1 and 1525.2 of Article 5.1 of Division 15 of Title 16 of the California Code of Regulations to read as follows:

1525. Optometrist License Renewal.

(a) A license issued pursuant to Business and Professions Code Section 3055 expires at midnight on the last day of the licensee's birth month following its original issuance and thereafter at midnight on the last day of the licensee's birth month every two years if not renewed.

(b) A renewal for licensure as an optometrist shall be made on a form prescribed by the Board (Form R1POPT, Rev. 3-10), which is hereby incorporated by reference, and shall be accompanied by the fee specified in Section 1524 and filed with the Board at its office in Sacramento.

(c) Failure to provide all of the information required by this section renders any application for renewal incomplete and not eligible for renewal.

(d) Failure of a licensee to comply with subdivision (b) is grounds for disciplinary action by the board against the license.

NOTE: Authority cited: Sections 3010.1, 3010.5, 3024, and 3025, Business and Professions Code. Reference: Sections, 3055, 3056, 3059, and 3110 Business and Professions Code; and Section 11105, Penal Code.

1525.1. Fingerprint Requirements.

(a) As a condition of renewal for a licensee who was initially licensed prior to January 1, 1998, or for whom an electronic record of the submission of fingerprints no longer exists, such licensee shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.

(1) The licensee shall pay any costs for furnishing the fingerprints to the Department of Justice and conducting the searches.

(2) A licensee shall certify when applying for renewal whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section.

(3) This requirement is waived if the license is renewed in an inactive status, or if the licensee is actively serving in the military outside the country. The board shall not return a license to active status until the licensee has complied with subsection (a).

(4) A licensee shall retain, for at least three years from the renewal date, either a receipt showing the electronic transmission of his or her fingerprints to the Department of Justice or a receipt evidencing that the licensee's fingerprints were taken.

(b) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been convicted of any violation of the law in this or any other state and, the United States, and its territories, military court, or other country, omitting traffic infractions under \$300 not involving alcohol, dangerous drugs, or controlled substances.

(c) As a condition of renewal, a licensee shall disclose whether, since the licensee last applied for renewal, he or she has been denied a license or had a license disciplined by another licensing authority of this state, of another state, of any agency of the federal government, or of another country.

(d) Failure to comply with the requirements of this section renders any application for renewal incomplete and the license will not be renewed until the licensee demonstrates compliance with all requirements.

(e) Failure to furnish a full set of fingerprints to the Department of Justice as required by this section on or before the date required for renewal of a license is grounds for discipline by the Board.

(f) As a condition of petitioning the board for reinstatement of a revoked or surrendered license or registration, an applicant shall comply with subsection (a)


NOTE: Authority cited: Sections 144, 3010.1, 3010.5, 3024, 3025, Business and Professions Code. Reference: Section 3110, Business and Professions Code; and Section 11105, Penal Code.

1525.2. Response to Board Inquiry.

If the board or its designee asks a licensee to provide criminal history information, a licensee shall respond to that request within 30 days. The licensee shall make available all documents and other records requested and shall respond with accurate information. Failure to comply with the requirements of this section is grounds for discipline by the board.

NOTE: Authority cited: Sections 3010.1, 3010.5, 3024, and 3025, Business and Professions Code. Reference: Sections 144, 3055, 3056, 3059, and 3110 Business and Professions Code; and Section 11105, Penal Code.

DATED: 6-16-2010


Mona Maggio, Executive Officer
Board of Optometry