

**DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA STATE BOARD OF OPTOMETRY**

FINAL STATEMENT OF REASONS

Hearing Date: The Board did not schedule a public hearing, nor was one requested.

Subject Matter of Proposed Regulations: Fees

Sections Affected: California Code of Regulations (CCR), Title 16, CCR Sections 1399.260, 1399.261, 1399.263, and 1524.

Request for Effective Date of July 1, 2024: The California State Board of Optometry (Board or CSBO) requests that this regulatory proposal become effective on July 1, 2024, to implement the proposed amendments to CCR sections 1399.260, 1399.261, 1399.263, and 1524. The date of July 1, 2024 is requested to align with the fiscal year reporting cycle of the board, which runs June 30-July 1 each year.

The Board is increasing the fees charged for application, initial registration, and renewal, and setting 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. Optometrist fees have been raised twice in the past 30 years with the last increase occurring 14 years ago in 2009. Optician fees were last raised in 2017, six years ago. The other fees in this proposal, the continuing education course approval fee and the certification fees, have not been adjusted since their implementation more than a decade ago.

The Board is a special fund entity, funded entirely by license fees and disciplinary action assessments, and has historically maintained a health fund balance reserve. However, operational costs, including licensing and enforcement-related costs, have increased in recent years, and actual revenues have simultaneously been lower than projected, which has caused the Board's fund to become structurally imbalanced with projected revenues less than expenditures. This proposal is necessary to help ensure the Board has additional resources to maintain the highest priority of consumer safety and protection and to help to recover costs for administration and enforcement of the practice of optometry and opticianry in California. The structural imbalance was identified at the August 26, 2022, meeting and discussed at every meeting since then (December 9, 2022 and March 17, 2023), with the Board beginning the process to increase fees at its May 12, 2023 meeting.

Updated Information: The Initial Statement of Reasons is included in the file and is incorporated herein. The information contained therein is updated as follows:

The regular comment period for this rulemaking began on September 15, 2023, and ran to October 31, 2023. No hearing was scheduled or requested. One comment from Ruby Garcia representing the California State Society for Opticians, expressing support for the proposal, was received during the public comment period.

Local Mandate: A mandate is not imposed on local agencies or school districts.

Small Business Impact: The Board has determined this regulation may have an economic impact on businesses, specifically, the Board’s licensees and applicants. The regulation would increase fees for biennial renewal for optometrists, applications for continuing education course approval, and certifications for glaucoma and lacrimal irrigation. The proposal would also increase application, registration, and renewal fees for registered dispensing ophthalmic businesses, contact lens dispensers, and spectacle lens dispensers. To the extent these applicants apply for licensure or licensees opt to renew their licenses and registrations, the proposed regulations will impact them as described below:

Table 5: Cost Impact – Applicant and Licensee Population

| Application/Registration Type | Estimated Population | Increase Amount | Projected Costs Increase |
|--------------------------------------|-----------------------------|------------------------|---------------------------------|
| Optometrist – Biennial Renewal | 3,564 | \$75 | \$267,300 |
| Continuing Education Course App | 144 | \$50 | \$7,200 |
| Optometrist – Glaucoma certification | 296 | \$15 | \$4,440 |
| Optometrist – Lacrimal Certification | 273 | \$25 | \$6,825 |
| RDO* Business – Application | 59 | \$50 | \$2,950 |
| RDO* Business – Registration | 53 | \$100 | \$5,300 |
| RDO* Business – Biennial Renewal | 517 | \$100 | \$51,700 |
| CLD** – Application | 172 | \$50 | \$8,600 |
| CLD** – Registration | 162 | \$100 | \$16,200 |
| CLD** – Biennial Renewal | 523 | \$100 | \$52,300 |
| SLD*** – Application | 387 | \$50 | \$19,350 |
| SLD*** – Registration | 359 | \$100 | \$35,900 |
| SLD*** – Biennial Renewal | 1,187 | \$100 | \$118,700 |
| Total: | | | \$596,765 |

*RDO – Registered Dispensing Ophthalmic

**CLD – Contact Lens Dispenser

***Spectacle Lens Dispenser

Although the regulation has an economic impact, the impact is not anticipated to be a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with other businesses in California, because the fee increases are considered to be very minor compared to the income of most applicants, licensees, and registrants.

Benefits: The proposed amendments to the Board's fee schedule will help to reduce the Board's structural budget imbalance, recover costs, and allow the Board additional time before insolvency, which allows the Board enough time to seek authority to increase statutory fee levels to eliminate the structural imbalance. The Board has historically been able to operate within its existing budget. However, due primarily to recent licensing and enforcement-related workload and costs, the Board Members began considering options to stabilize the Board budget at the August 26, 2022, meeting and voted unanimously to approve the proposed regulations at its May 12, 2023, board meeting. The proposed fee increases will help to reduce the structural imbalance and help the Board to recover its administrative costs to ensure the Board has funds to carry out its consumer protection mandate.

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 interruption. 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 operations 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.

INCORPORATION BY REFERENCE: There are no forms or documents incorporated by reference.

Consideration of Alternatives:

The Board has determined that no reasonable alternative to the regulatory proposal would be more effective in carrying out the purpose for which the regulation is proposed, would be as effective and less burdensome to affected private persons than the adopted regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

No reasonable alternatives were considered because the Board's Fund will become insolvent without a fee increase. If the Board reduces its annual expenditures to mitigate the structural fund imbalance, the Board would be forced to cut mission critical functions, which will jeopardize the public health, safety, and welfare of California consumers.