

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** November 4, 2016

From: Joanne Stacy **Telephone:** (916) 575-7182
Policy Analyst

Subject: **Agenda Item 16- Update on Rulemaking Calendar and Possible Action
Regarding Regulations Impacting the Practice of Optometry**

**A. Amendment to California Code of Regulations (CCR) § 1582 Unprofessional Conduct and
Amendment to CCR § 1516 Application Review and Criteria for Rehabilitation Following
Disapproval**

Background:

At its August 16, 2013 meeting, the Board voted to initiate a rulemaking to give the Board authority to compel an applicant to submit to a psychological or physical examination, and further define unprofessional conduct. The rulemaking action was printed in the California Regulatory Notice Register on October 18, 2013, and the 45-day comment period for the public started on October 18, 2013 and ended on December 2, 2013. The hearing was to be held December 2, 2013 in Sacramento at the Department of Consumer Affairs. However, due to the Executive Officer's absence for medical leave and the loss of the Board's Policy Analyst, the hearing was not held.

Due to time constraints, and at the recommendation of the Department of Consumer Affairs' Legal Division, the Board restarted the process concerning the rulemaking package pertaining to CCR Section 1516. On August 1, 2014, a Notice of Decision Not to Proceed was printed in the California Regulatory Notice Register in order to withdraw the Board's October 18, 2013 Notice. Staff resubmitted the unchanged rulemaking package to the Office of Administrative Law, which was printed in the California Regulatory Notice Register on August 8, 2014. A 45-day public comment period began on August 8, 2014 and concluded on September 22, 2014.

The rulemaking action was printed in the California Regulatory Notice Register December 12, 2014, and the 45-day comment period for the public started on December 12, 2014 and ended on January 26, 2015. The hearing was held on January 26, 2015. There were no comments or public speakers at the hearing. The rulemaking package was approved by the Department of Consumer Affairs and Agency.

On December 4, 2015, the Board received a Decision of Disapproval of Regulatory Action for the rulemaking package. In order to resolve all issues, Board counsel prepared an Addendum to the Initial Statement of Reasons and Modified Text which must be available

for a 15 calendar day public comment period. Any comments made regarding the addendum must be presented to the Board for consideration and be summarized and responded to in the Final Statement of Reasons.

The Board approved the Addendum and Modified Text and directed staff to send it out for the required 15-day comment period. In the absence of any adverse comments, direct staff to resubmit the rulemaking packet to OAL for approval, and request an extension from the appropriate agency if necessary.

The rulemaking package has been finished by staff and is going through the check and approval process at DCA. The order of adoption is (Attachment 1). It was necessary to request a deadline extension from the Office of Administrative Law (OAL) to allow for internal approval. The deadline extension was granted making the packet due to OAL October 25, 2016.

Update: The rulemaking package is at DCA for approval.

Action Requested:

None

B. Amendment to CCR § 1399.260 RDO Fees, § 1399.261 Contact Lens Dispenser Fees, § 1399.263 Spectacle Lens Dispenser Fees

Background:

During the November 20, 2015 Board meeting, the Board voted to adopt proposed amendments to the applicable CCR sections, raising each fee to its statutory cap, in order to temporarily address the RDO Programs current fund condition (Attachment 2).

Update:

Senate Bill 1039 passed out of the Legislature on August 30, 2016 and was sent to the Governor. The bill became law on September 30, 2016 and will go into effect on January 1, 2017. SB 1039 included the new fee structure for the RDO program that the Board approved during the May 27, 2016 meeting. The bill sets the fees at the floor of the fee structure.

Action Requested:

Staff recommends that the Board vote to withdraw the rulemaking package from the approved regulation packages.

C. Amendment to CCR § 1523 Licensure Examination Requirements to Update Form 39A-1, Rev. 7-09, Form OLA-2, Rev. 11/07, and Form LBC-4, rev. 2/07

Background:

Currently, the Board utilizes two separate optometrist applications for those seeking licensure in California - a standard application and an out of state application. However, staff has found these applications caused confusion for applicants, resulting in applicants completing the wrong form. In addition, the license application needs to be updated to reflect current law requiring the Board to inquire if the individual applying for licensure is serving in, or has previously served in, the military. Further, staff found one of the most frequent questions from new grads relates to the length of initial license period.

After a thorough review of licensing laws and processes, Board staff recommends consolidating the two forms into one and updating the form to reflect current law. Board staff believes this will help clarify requirements, streamline the licensing process and decrease licensing cycle times. The forms were approved and are attached. Form 39A-1, Rev. 7-09 (Attachment 3), Form OLA-2, Rev. 11/07 (Attachment 4), and Form LBC-4, rev. 2/07.

Update:

Staff is preparing this rule making package for notice.

Action Requested:

None

D. Amendments to CCR § 1536 Continuing Optometric Education; Purpose and Requirements

Background:

In August 2013, the Board approved the Continuing Optometric Exemption/Extension Form for licensees requesting CE exemptions/extensions, pursuant to CCR § 1536. However, the form needs to be updated to accurately reflect current law and incorporated by reference.

Similarly, CCR § 1536 allows the Board to approve continuing education courses meeting the criteria set in CCR § 1536 (g). Currently, CE Providers seeking course approval submits a completed CE Course Approval form and the applicable fee. However, the form should be updated to reflect current law, approved by the Board, and incorporated by reference.

Based on the above, staff drafted the proposed amendments to CCR § 1536. The Board approve the revised forms and proposed amendments to CCR § 1536 and directed staff to prepare the proper rulemaking documents and set the matter for public hearing.

Staff has completed the packet and sent it to DCA for internal check and approval. The packet was due to the Office of Administrative Law (OAL) on September 25, 2016. OAL has 30 working days to approve or disapprove the rule making packet. Regulations go into effect quarterly; if the packet is approved then it will go into effect January 1, 2017. (Attachment 5)

Update:

This rulemaking package has been submitted to OAL for approval. The decision is due November 9, 2016.

Action Requested:

None

E. Proposed Revision to CCR § 1514.1 Co-Location Reporting Requirement

Background:

During the November 20, 2015 Board meeting, the Board voted to adopt the proposed addition to CCR § 1514.1 (Attachment 6) and related form (Attachment 7). However, the Board also requested the Administration's assistance in amending BPC Section 2556.1 to expand the reporting requirement to registered dispensing opticians.

In response to the Board's request, the Administration included the requested amendment in the SB 836, which is has passed and is now in effective.

Update:

Board staff amended the applicable form and regulatory language to reflect the changes in law made by SB 836.

Action Requested:

Please review, consider, and vote to approve the proposed amendments. If approved, please delegate authority to the Executive Officer to initiate the rule making process and circulate the language for the required time period.

F. Amendment to CCR § 1502 Delegation of Functions

Background:

CCR § 1536 allows the Board to approve continuing education courses meeting the criteria set in CCR § 1536 (g) and approve CE extension requests. In order for staff to approve these courses and CE extension requests, the Executive Officer (EO) should be given the delegated authority from the Board. Otherwise, the way the regulation is currently written, each course and request for CE extension would have to go before the Board for approval.

The proposed regulatory revision would also authorize the EO to accept default decisions and stipulated surrenders of a license. In May 2013, the Board voted against delegating authority to accept default decisions and stipulated surrenders based on the low volume of disciplinary matters it receives and the belief that delegating such authority prevented the Board from weighing in on disciplinary decisions. However, given the addition of several new license types and imperfect information regarding the potential volume of licensing and disciplinary actions, Board legal counsel has suggested that the Board may want to revisit this decision.

As a consumer protection agency, the Board is obligated to protect California consumers and patients. Please note that in cases of defaults, the respondent, applicant or cited person has two mechanisms available to get to a hearing on the merits. In cases of stipulated surrenders, the respondents, often times represented by attorneys, have agreed to no longer practice in California. Here, the issue is timing, as any delay may allow respondents with admitted alcohol/drug addictions to continue treating patients and/or allow those who admitted to providing gross negligent, incompetent and/or substandard care to continue providing said care. The Board voted to approve the proposed amendments (Attachment 8) to CCR § 1502 and directed staff to prepare the proper rulemaking documents and set the matter for public hearing during the February 2016 meeting.

Action Requested:

None

G. Amendment to CCR § 1530.1 Qualifications of Foreign Graduates

Background:

In order for foreign graduates to obtain sponsorship to sit for the National Board of Examiners in Optometry (NBEO) examination, applicants were required to submit the Application for International (Foreign) Graduate Sponsorship. In addition, applicants were required to submit fingerprints and have their education evaluated by a professional credential evaluation service. However, the application and additional requirements need to be updated to reflect current law, approved by the Board, and incorporated by reference. The Board approved the proposed form (Attachment 9) and amendments (Attachment 10) to CCR § 1530.1 and directed staff to prepare the proper rulemaking documents and set the matter for public hearing.

Action Requested:

None

H. Amendment to CCR § 1506 Certificates – Posting

Background:

During the November 21, 2014 meeting, Dr. David Turetsky, O.D. requested the Board consider a consumer notice requirement (signage) that would educate consumers about the different certifications an optometrist can obtain and what the designations after the license number mean.

Then Board President, Dr. Alejandro Arredondo, asked Dr. Turetsky, Ms. Donna Burke, and Ms. Cyd Brandvein to work on the consumer notice. Dr. Turetsky and Ms. Burke met with then Executive Officer, Mona Maggio, for the workgroup's initial meeting; Ms. Brandvein was unavailable to participate at that time.

The workgroup reviewed and revised the fact sheet "What Do the Letters after an Optometrist's License Mean?" for clarity and added a category for optometrists with "No Designation" for the optometrists who continue to practice with no certifications.

The workgroup recommended the Consumer Notice become part of Title 16, California Code of Regulations (CCR), §1506, Certificates – Posting. Requiring at each office there shall be posted in a conspicuous place, next to the optometrist's posted license, a notice which shall clearly state the certification designations and definitions for the purpose of consumer education.

After discussing the consumer notice during the April 23-24, 2015 Board Meeting, the Board voted (9-Aye; 1-No) to send the notice back to the workgroup, make it more "user-friendly," and bring it back to a future Board meeting.

On July 23, 2015, the workgroup revised the Consumer Notice and developed proposed amendments to CCR §1506 for Board consideration. In addition, staff recommended amendments to clarify existing language. The Board voted to amend CCR §1506 (Attachment 11) and adopt the Consumer Notice (Attachment 12) and directed staff to prepare the necessary documents to initiate the rulemaking process.

Action Requested:

None

I. Amendment to CCR § 1523.5 Abandonment of Applications

Background:

Currently, the Board does not have the authority to abandon any license/permit applications. In order to issue licenses/registrations/permits, the Board must receive the necessary information, documentation, and/or other materials. Some applicants, however, may apply and never submit the required information even after frequent requests from staff for the missing items.

Consequently, the Board maintains application files that may never be issued and will always be reported as "pending" workload; these files are in a sort of perpetual holding pattern, which is neither efficient nor productive. Staff must store and monitor these files and keep them open even though the application may have been sitting dormant for years. The Board appears to be one of the few DCA entities who do not have this authority.

To rectify this, Board legal counsel has provided proposed language for the addition of CCR § 1523.5 (Attachment 13). Please note that the abandonment of files is not something that is taken lightly - staff would warn applicants that abandonment may occur if the applicant does not supply the necessary information. The Board approved the proposed addition to CCR § 1523.1 during the February 19, 2016 meeting and directed the staff to prepare the proper rulemaking documents and set the matter for public hearing.

Action Requested:

None

J. Proposed Addition to CCR § 1503 Relating To Accreditation of Schools and Colleges of Optometry

Background:

Business and Professions Code (BPC) § 3023 mandates the Board “accredit schools, colleges, and universities in or out of this state providing optometric education, that it finds giving a sufficient program of study for the preparation of optometrist.”

BPC § 3025.2 allows the Board, through regulation, to “... recognize, accept, or adopt the advice, recommendation, accreditation or approval of a nationally recognized accrediting agency or organization.” However, the Board does not have any such supporting regulation.

The Board only accepts schools and colleges of optometry who have received accreditation through the Accreditation Council on Optometric Education (ACOE). As stated on their website, ACOE “is the only accrediting body for professional optometric degree (O.D.) programs, optometric residency programs and optometric technician programs in the United States and Canada.

Both the U.S. Department of Education and the Council on Higher Education Accreditation recognize the ACOE as a reliable authority concerning the quality of education of the programs the Council accredits. ACOE accreditation means the programs that have attained accredited status: “Meet the Council's standards of educational effectiveness; and show a demonstrated commitment to quality assessment and improvement.”

The Board approve the proposed language (Attachment 14) during the August 26, 2016 Board meeting and delegated authority to the Executive Officer to initiate the rule making process and circulate the language for the required time period.

Action Requested:

None

Attachments:

1. Unprofessional Conduct – 1516, 1582 Order of Adoption
2. RDO Fee Increase - 1399 Language
3. Form 39A-1 Rev. 7-09
4. Form OLA-2
5. CCR § 1536 Proposed Language
6. CCR § 1514.1 Amendments – Will be provided at the meeting
7. Co-location Form – Will be provided at the meeting
8. Amendment to CCR § 1502 Delegation of Certain Functions
9. International (Foreign) Graduate Sponsorship Application
10. Amendment to CCR § 1530.1 Qualifications of Foreign Graduates
11. Amendment to CCR §1506, Certificates – Posting
12. Consumer Notice
13. Addition to CCR § 1523.5; Abandonment of Applications
14. Addition to CCR § 1503. Accreditation

BOARD OF OPTOMETRY

ORDER OF ADOPTION

(1) Amend Section 1516 in Division 15 of Title 16 of the California Code of Regulations to read as follows:

1516. Application Review and Criteria for Rehabilitation.

(a) In addition to any other requirements for licensure, whenever it reasonably appears that an applicant may be unable to practice optometry safely because his or her ability to practice may be impaired due to mental or physical illness affecting competency, the Board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the Board. The applicant shall pay the full cost of the examination. An applicant's failure to comply with the requirement shall render his or her application incomplete. If after receiving the report of the evaluation the Board determines that the applicant is unable to safely practice, the Board may deny the application. The report of the evaluation shall be made available to the applicant.

~~(a)(b)~~ When considering the denial of a ~~certificate of registration~~ license under Section 480 of the Code, the Board, in evaluating the rehabilitation of the applicant and his/ or her present eligibility for a ~~certificate of registration~~ license, will consider the following criteria:

(1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

~~(b)(c)~~ When considering the suspension or revocation of a ~~certificate of registration~~ license on the grounds that the ~~registrant~~ licensee has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/or her present eligibility for a license, will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

~~(e)~~(d) When considering a petition for reinstatement of a ~~certificate of registration~~ license under Section 11522 of the Government Code, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria of rehabilitation specified in subsection ~~(b)-(c)~~.

Note: Authority cited: Sections 3023, 3023.1, 3025, 3056 and 3057 Business and Professions Code. Reference: Sections 475, 480, 481, ~~and 482~~, 3056, and 3057 Business and Professions Code; and Section 11522, Government Code.

(2) Adopt Section 1582 in Division 15 of Title 16 of the California Code of Regulations to read as follows:

1582. Unprofessional Conduct.

In addition to the conduct described in Section 3110 of the Code, "unprofessional conduct" also includes, but is not limited to the following:

(a) Failure to cooperate and participate in any Board investigation pending against the licensee. This includes, but is not limited to, failure to respond to a Board request for information or evidence within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the information within this time period for good cause. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(b) Failure to report to the Board, within 30 days, any of the following:

(1) The bringing of an indictment or information charging a felony against the licensee.

(2) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

(3) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military that is related to the practice of optometry.

(c) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the Board.

NOTE: Authority cited: Sections 3090 and 3110, Business and Professions Code. Reference: Sections 480, 3010.1, 3010.5, 3024, and 3025, Business and Professions Code.

BOARD OF OPTOMETRY

PROPOSED LANGUAGE

Amend Section 1399 of Division 13.5 Title 16 of the California Code of Regulations to read as follows:

§ 1399.260. Registered Dispensing Optician Fees.

(a) The initial registration fee shall be ~~\$75.00~~ \$100.00.

(b) The renewal fee shall be ~~\$75.00~~ \$100.00.

Note: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2565, Business and Professions Code.

§ 1399.261. Contact Lens Dispenser Fees.

(a) The initial registration fee shall be ~~\$75.00~~ \$100.00.

(b) The biennial renewal fee shall be ~~\$75.00~~ \$100.00.

Note: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2566, Business and Professions Code.

§ 1399.263. Spectacle Lens Dispenser Fees.

(a) The initial registration fee shall be ~~\$75.00~~ \$100.00.

(b) The renewal fee shall be ~~\$75.00~~ \$100.00.

Note: Authority cited: Section 2558, Business and Professions Code. Reference: Section 2566.1, Business and Professions Code.

BOARD OF OPTOMETRY

ORDER OF ADOPTION

Amend Section 1536 of Division 15 Title 16 of the California Code of Regulations to read as follows:

§ 1536. Continuing Optometric Education; Purpose and Requirements.

(a) Except as otherwise provided in Section 1536(b), each licensee shall complete 40 hours of formal continuing optometric education course work within the two years immediately preceding the license expiration date. Such course work shall be subject to Board approval. Up to eight hours of course work may be in the area of patient care management or ethics in the practice of optometry. Business management courses are not accepted by the Board.

(b) An optometrist certified to use therapeutic pharmaceutical agents pursuant to Business and Professions Code section 3041.3 shall complete a total of 50 hours of continuing optometric education every two years in order to renew his or her license. Thirty-five of the required 50 hours of continuing optometric education shall be on the diagnosis, treatment and management of ocular disease and consistent with Business and Professions Code section 3059, subdivision (e).

(c) Up to 20 hours of required biennial course work may be accomplished by using any or all of the following alternative methods:

(1) Documented and accredited self study through correspondence or an electronic medium.

(2) Teaching of continuing optometric education courses if attendance at such course would also qualify for such credit, providing none are duplicate courses within the two-year period.

(3) Writing articles that have been published in optometric journals, magazines or newspapers, pertaining to the practice of optometry (or in other scientific, learned, refereed journals on topics pertinent to optometry), providing no articles are duplicates. One hour of credit will be granted for each full page of printing or the equivalent thereof.

(4) A full day's in person attendance at a California State Board of Optometry Board meeting as verified by the Board. Every two hours of open session equates to one hour of credit, up to a maximum of four hours. ~~Up to two credit hours shall be granted for a full day.~~

(5) Completion of a course to receive certification in cardiopulmonary resuscitation (CPR) from the American Red Cross, the American Heart Association, or other association approved by the Board. Up to four credit hours shall be granted for this course.

(6) Any CE continuing education course approved for category 1 of the American Medical Association or category 1A of the American Osteopathic Association Continued Medical Education credits that contributes to the advancement of professional skill and knowledge in the practice of optometry.

(7) Participation as a subject matter expert in the creation of the Board's California Laws and Regulation Examination. Subject matter experts will receive one hour of continuing education credit for each hour attending a Board sponsored workshop, not to exceed eight credits per renewal cycle.

(d) A credit hour is defined as one classroom hour, usually a 50-minute period, but no less than that.

(e) Continuing optometric education programs which are approved as meeting the required standards of the Board include the following:

(1) Continuing optometric education courses officially sponsored or recognized by any accredited school or college of optometry.

(2) Continuing optometric education courses provided by any national or state affiliate of the American Optometric Association, the American Academy of Optometry, or the Optometric Extension Program.

(3) Continuing optometric education courses approved by the Association of Regulatory Boards of Optometry committee known as COPE (Council on Optometric Practitioner Education).

(f) Other continuing optometric education courses approved by the Board as meeting the criteria set forth in paragraph (g) below, after submission of the Continuing Education Approval application (Form CE-01, Rev. 5/16), hereby incorporated by reference, a course, schedule, topical outline of subject matter, and curriculum vitae of all instructors or lecturers involved, to the Board not less than 45 days prior to the date of the program. The Board may, upon application of any licensee and for good cause shown, waive the requirement for submission of advance information and request for prior approval. Nothing herein shall permit the Board to approve a continuing optometric education course which has not complied with the criteria set forth in paragraph (g) below.

(g) The criteria for judging and approving continuing education courses by the Board for continuing optometric education credit will be determined on the following basis:

(1) Whether the program is likely to contribute to the advancement of professional skills and knowledge in the practice of optometry.

(2) Whether the instructors, lecturers, and others participating in the presentation are recognized by the Board as being qualified in their field.

(3) Whether the proposed course is open to all optometrists licensed in this State.

(4) Whether the provider of any mandatory continuing optometric education course agrees to maintain and furnish to the Board and/or attending licensee such records of course content and attendance as the Board requires, for a period of at least three years from the date of course presentation.

(h) Proof of continuing optometric education course attendance shall be provided in a form and manner specified in writing by the Board and distributed to all licensed optometrists in this State. Certification of continuing optometric education course attendance shall be submitted by the licensee to the Board upon request, and shall contain the following minimal information:

(1) Name of the sponsoring organization.

(2) Name, signature, practice address, and license number of the attending licensee.

(3) Subject or title of the course.

(4) Number of continuing optometric education hours provided for attending the course.

(5) Date the course was provided.

(6) Location where the course was provided.

(7) Name(s) and signature(s) of the course instructor(s).

(8) Such other evidence of course content or attendance as the Board may deem necessary. Use of a certificate of course completion provided by the Board is recommended for any continuing optometric education course approved by the Board pursuant to the above. Such forms will be furnished by the Board upon request.

The Board will also recognize and utilize the Association of Regulatory Boards in Optometry's online Optometric Education (OE) Tracker system as proof of continuing education course attendance.

(i) The following licensees shall be exempt from the requirements of this section:

(1) Any licensee serving in the regular armed forces of the United States during any part of the two years immediately preceding the license expiration date.

(2) ~~(3)~~ Those licensees as the Board, in its discretion, determines were unable to complete sufficient hours of continuing optometric education courses due to illness, incapacity, or other unavoidable circumstances. An extension may be granted if the Board, in its discretion, determines that good cause exists for the licensee's failure to complete the requisite hours of continuing optometric education.

~~(3)~~ ~~(2)~~ Any licensee who is renewing an active license for the first time, if he or she graduated from an accredited school or college of optometry less than one year from the date of initial licensure.

(j) The Board, in its discretion, may exempt from the continuing optometric education requirements of this section licensees who for health reasons or other good cause cannot meet these requirements. Licensees requesting an exemption shall complete a Continuing Education Exemption Request (Form CE-E, Rev 2/2016) and submit it, along with all required supporting information, to the Board for its consideration at least thirty (30) days prior to the expiration of the license.

(1) The Board may deny a request for exemption but at its discretion may grant the licensee an extension of up to one year to obtain the necessary continuing optometric education.

(2) A licensee whose requests for an exemption is denied and an extension is not granted shall otherwise comply with the provision of this section.

~~(j)~~(k) The Board may conduct an audit of any licensee's attendance of a continuing optometric education course as a means of verifying compliance with this section.

~~(k)~~(l) Licensees that are glaucoma certified pursuant to BPC section 1571 shall be required to complete 10 hours of glaucoma specific optometric continuing education every license renewal period. These 10 hours shall be part of the required 35 hours on the diagnosis, treatment and management of ocular disease.

NOTE: Authority cited: Section 3025, Business and Professions Code. Reference: Section 3059, Business and Professions Code.

Amend Section 1536 of Division 15 Title 16 of the California Code of Regulations to read as follows:

§ 1571. REQUIREMENTS FOR GLAUCOMA CERTIFICATION

(a) Only optometrists meeting the requirements of this Article may apply for certification for the treatment of glaucoma as described in subdivision (j) of Section 3041, in patients over 18 years of age. The optometrist shall:

(1) Hold an active license as an optometrist in California in good standing with the State Board of Optometry (Board);

(2) Be certified to use Therapeutic Pharmaceutical Agents (TPA) pursuant to Section 3041.3;

(3) Complete a didactic course of no less than 24 hours in the diagnosis, pharmacological and other treatment and management of glaucoma. The following topics may be covered in the course:

(A) Anatomy and physiology of glaucoma

(B) Classification of glaucoma

(C) Pharmacology in glaucoma therapy

(D) Diagnosis of glaucoma including risk factors analysis

(E) Medical and surgical treatment

(F) Participant performance assessment; and

(4) Complete a Case Management Requirement where a minimum of 25 individual patients are each prospectively treated for a minimum of 12 consecutive months. For purposes of this section, "treat" means properly evaluating the patient, performing all necessary tests, diagnosing the patient, recognizing the type of glaucoma within a licensee's scope of practice, creating a treatment plan with proposed medications and target pressures, ongoing monitoring and reevaluation of the patient's condition, and making timely referrals to an ophthalmologist when appropriate. The following options may be chosen in any combination to fulfill this requirement:

(A) Case Management Course: Completion of a 16hour case management course developed cooperatively by the accredited California schools and colleges of optometry and approved by the Board, with at least 15 cases of moderate to advanced complexity. The course may be conducted live, over the Internet, or by use of telemedicine. One hour of the program will be used for a final competency examination. Although the Case Management Course does not involve treatment of patients, completion of the 16-hour Case Management Course is equivalent

to prospectively treating 15 individual patients for 12 consecutive months. Therefore, completion of the 16-hour Case Management Course will count as a 15-patient credit towards the Case Management Requirement. The full course must be completed to receive the 15-patient credit. The course must include the following topics/conditions:

1. Presentation of conditions/cases that licensees may treat:
 - a. All primary open-angle glaucoma;
 - b. Exfoliation and pigmentary glaucoma.

2. Presentation of conditions/cases that licensees may not treat, but must recognize and refer to the appropriate physician and/or surgeon such as:
 - a. Pseudoglaucoma with vascular, malignant, or compressive etiologies;
 - b. Secondary glaucoma;
 - c. Traumatic glaucoma;
 - d. Infective or inflammatory glaucoma;
 - e. Appropriate evaluation and analysis for medical or surgical consultation;
 - f. In an emergency, if possible, stabilization of acute attack of angle closure and immediate referral of the patient.

(B) Grand Rounds Program: Completion of a 16-hour grand rounds program developed cooperatively by the accredited California schools and colleges of optometry and approved by the Board, wherein participants will evaluate and create a management plan for live patients. Completion of the 16-hour Grand Rounds Program is equivalent to prospectively treating 15 individual patients for 12 consecutive months. Therefore, the 16-hour Grand Rounds Program will count as a 15-patient credit towards the Case Management Requirement. The full program must be completed to receive the 15-patient credit. Patients must be evaluated in person. The program must include the following:

1. Presentation of various patient types such as: glaucoma suspects; narrow angle, primary open angle glaucoma (early, moderate, late); and secondary open angle glaucoma such as pigment dispersion and pseudoexfoliation. Patient data, including but not limited to, visual acuities, intra-ocular pressures, visual fields, imaging, and pachymetry, will be available on-site and presented upon request;
2. Examination of patients, evaluation of data and test results, and commitment to a tentative diagnosis, treatment, and management plan;
3. Participation in group discussion of the cases with instructor feedback;
4. Attendance of follow-up meetings (within the 16-hour program requirement) where the same or different patients will be reviewed via serial data, including but not limited to visual fields and imaging photos.

(C) Preceptorship Program: Completion of a preceptorship program where each patient must be initially evaluated by the licensee and co-managed with a preceptor. Each patient must be prospectively treated for a minimum of 12 consecutive months. A preceptor for purposes of this section is defined as:

1. A California licensed, Board certified ophthalmologist in good standing; or
2. A California licensed optometrist in good standing, who has been glaucoma certified for two or more years.

Preceptors shall confirm the diagnosis and treatment plan, and then approve the therapeutic goals and management plan for each patient. Consultation with the preceptor must occur at appropriate clinical intervals or when the therapeutic goals are not achieved. Clinical data will

be exchanged at appropriate intervals determined by the preceptor and the licensee. Telemedicine and electronic exchange of information may be used as agreed upon by the preceptor and the licensee. Each patient that is seen by the optometrist in the program will count as a 1patient credit towards the Case Management Requirement.

~~(b) Licensees that are glaucoma certified pursuant to this Section shall be required to complete 10 hours of glaucoma specific optometric continuing education every license renewal period. These 10 hours shall be part of the required 35 hours on the diagnosis, treatment and management of ocular disease.~~

(~~b~~) Licensees who completed their education from an accredited school or college of optometry on or after May 1, 2008, are exempt from the didactic course and case management requirements of this Section, provided they submit proof of graduation from that institution to the Board.

(~~c~~) Licensees who graduated from an accredited school or college of optometry prior to May 1, 2000, and who have not completed a didactic course of no less than 24 hours will be required to take the 24-hour course indicated in subsection (a). Licensees who graduated from an accredited school or college of optometry after May 1, 2000, are exempt from the didactic course requirement of this Section.

(~~d~~) Licensees who graduated from an accredited school or college of optometry prior to May 1, 2008, and who have taken a didactic course of no less than 24 hours, but not completed the case management requirement under SB 929 [Stats. 2000, ch. 676, § 3], will be required to complete the Case Management Requirement indicated in subsection (a).

(~~e~~) Licensees who started the process for certification to treat glaucoma under SB 929 [Stats. 2000, ch. 676, § 3] but will not complete the requirements by December 31, 2009, may apply all patients who have been co-managed prospectively for at least 12 consecutive months towards the Case Management Requirement indicated in subsection (a).

Authority cited: Sections 3025, 3041, 3041.10 and 3059, Business and Professions Code.
Reference: Sections 3041 and 3041.3, Business and Professions Code.

History

1. New section filed 12-9-2010; operative 1-8-2011 (Register 2010, No. 50).

Proposed Amendment to CCR § 1502 Delegation of Certain Functions

16 CCR § 1502
§ 1502. Delegation of Certain Functions.

- (a) The power and discretion conferred by law upon the Board to receive and file accusations; issue notices of hearing, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code; issue subpoenas and subpoenas duces tecum; set and calendar cases for hearing; accept default decisions and approve settlement agreements for the surrender or interim suspension of a license, and perform other functions necessary to the business-like dispatch of the business of the Board in connection with proceedings under the provisions of Sections 11500 through 11528 of the Government Code, prior to the hearing of such proceedings; and the certification and delivery or mailing of copies of decisions under Section 11518 of said code are hereby delegated to and conferred upon the executive officer.
- (b) The authority of the Board to approve continuing education courses and course providers and grant extensions and exemptions from the continuing education requirements in section 1536 is hereby delegated to the executive officer or his or her designee.

Note: Authority cited: Section 3025, Business and Professions Code. Reference: Section 3027, Business and Professions Code.

HAVE YOU EVER BEEN CONVICTED OF, PLED GUILTY TO, OR PLED NOLO CONTENDERE TO ANY MISDEMEANOR OR FELONY?

YES NO

If YES, attach your explanation and related documents as described in the REPORTING PRIOR CONVICTION(S) section of the instructions. You must disclose all convictions even if previously reported to the Board. However, it is not necessary for you to re-submit documentation previously on file; you may simply provide a written statement indicating that you believe the information is already on file. (Convictions dismissed under Section 1203.4 of the Penal Code must be disclosed. You need not include offenses prior to your 18th birthday. You may omit traffic infractions under \$300 that did not involve alcohol, dangerous drugs, or controlled substances.)

I declare under penalty of perjury under the laws of the State of California that all the information submitted on this form and on any accompanying attachments submitted is true and correct.

Signature of Applicant

Date

ATTACH ONE 2 X 2 COLOR PHOTOGRAPH TAKEN OF YOU WITHIN THE LAST 60 DAYS.

ATTACH COLOR PHOTO
HERE

PHOTO IS TO BE HEAD
AND SHOULDERS ONLY
And of
PASSPORT QUALITY

All terms of information requested are mandatory. Failure to provide any of the requested information will result in the application being rejected as incomplete. The information provided will be used to determine qualification to take the examinations for an optometrist license. The official responsible for the maintenance of this information is the Executive Officer. The information may be transferred to other interagency or intergovernmental agency, and/or enforcement agencies. Each individual has the right to review the files or records maintained on them by the agency, unless the records are identified as exempt from access as provided in Section 1798.40 et seq. of the Information Practices Act of the Civil Code.

THIS IS NOT AN APPLICATION FOR LICENSURE. ONLY APPLICANTS MEETING THE REQUIREMENTS UNDER BPC §§ [3046](#), [3056](#), OR [3057](#) ARE ELIGIBLE FOR A LICENSE TO PRACTICE OPTOMETRY IN CALIFORNIA.

Proposed Amendment to CCR § 1530.1 Qualifications of Foreign Graduates to Update Foreign Sponsorship Application and Incorporate Form by Reference

16 CCR § 1530.1

§ 1530.1. Qualifications of Foreign Graduates.

- (a) An individual who meets the requirements of section 3057.5 of the Code and seeks authorization (sponsorship) from the Board to take the national optometric licensing examination shall complete the Foreign Graduate Examination Sponsorship application (Form FG-01, Rev. 2/16), hereby incorporated by reference, and filed with the Board at its Sacramento office.
- (b) The applicant shall supply the Board with a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal criminal offender record information search conducted through the Department of Justice.
- (c) Applicants who meet the requirements of Section 3057.5 of the Code shall be admitted to the examination upon furnishing satisfactory evidence that the course of instruction completed is reasonably equivalent, as determined by the Board, to the course of instruction given by a school accredited by the Board; provided, however, that an applicant who is unable to furnish satisfactory evidence of equivalency may take those courses or subjects, in an accredited school or in another program of instruction acceptable to the Board, which would remedy areas of deficiency.
 - (1) For the purposes of determining equivalency, an applicant shall cause to have directly submitted to the Board an evaluation of his or her resident course of professional optometric instruction, as performed by a professional credential evaluation service.

Note: Authority cited: Sections ~~3023.4~~, ~~and~~ 3025, 3025.1, and 3025.2, Business and Professions Code. Reference: Sections 3023.1, 3025, 3047, 3050 and 3057.5, Business and Professions Code.

Committee recommended insertion is underlined in bold green.

Staff's recommended insertions are underlined in blue and deletions in ~~red strikethrough~~.

§1506. LICENSES AND CONSUMER NOTICE CERTIFICATES—POSTING

(a) A current license (previously referred to as a certificate of registration)~~certificate of registration, i.e., original wall certificate, is an original certificate of registration and license~~ is a license to practice optometry in the State of California granted by the Board to a natural person who has qualified for the same pursuant to the provisions of Chapter 7 of Division 2 of the Code, ~~and it~~ it may not be assigned or transferred to another person but shall; notwithstanding whether it is a replaced ~~by a certification of the issuance of a certificate of registration license, i.e., duplicate wall certificate, as provided by subdivision (b) of this section~~; remain valid and in force unless it is revoked or suspended and not reinstated or it is expired and not renewed or restored.

(b) A replacement license may be issued by the Board ~~certification of the issuance of a certificate of registration is a certification by the Board that the person named thereon to whom it is conveyed is the holder of the certificate of registration designated thereon and shall be issued to such person as prima facie evidence that such person is the holder of such certificate of registration designated thereon and to replace the same or a previous certification of the issuance of a certificate of registration issued to the same person, provided that~~ there is payment of the fee prescribed by Section 3152(h) of the code for the issuance of a license and one of the following applies:

(1) There is furnished proof satisfactory to the Board of a change in name authorized by law of such person or of the loss of, destruction of or severe damage to such ~~certificate of registration license~~ registration license or previous certification of the issuance of such ~~certificate of registration license~~.

(2) Such ~~certificate of registration license~~ registration license is, unless it is lost or destroyed, surrendered to the Board.

~~(3) There is payment of the fee prescribed by Section 3152(h) of the code for the issuance of a certification of registration.~~

(c) The principal place of practice of an optometrist shall be deemed by the Board to be that office, other than his/her the optometrist branch office or offices, ~~wherein he/she owns, singly or jointly with any others, the practice of optometry, provided however unless:~~

(1) ~~Where t~~The optometrist does not own a practice, singly or jointly with any others, but practices optometry in a single office as an employee, that office shall be his/her the optometrist's principal place of practice.

(2) ~~Where t~~The optometrist does not own a practice, singly or jointly with any others, but practices optometry in two or more offices as an employee, he/shethe optometrist shall inform the Board in

writing as to which of such offices shall be deemed ~~his/her~~the optometrist's principal place of practice.

(d) ~~“Evidence of licensure” is a current license to practice optometry, a Statement of Licensure, or a Branch Office License. When the optometrist owns, singly or jointly with any others, the practice of optometry in more than one office or is employed to practice optometry in more than one office and it is infeasible to have his/her certificate posted in more than one of such offices, he/she shall have a numbered statement of licensure issued~~ Evidence of licensure and the Consumer Notice (rev. 8/15) issued by the Board ~~and signed by its executive officer shall be~~ conspicuously posted in each ~~of such additional office(s) wherein he/she~~ the optometrist owns, singly or jointly with any others, the practice of optometry or wherein he/she practices optometry, ~~as an employee, provided that:~~ as an employee, provided that: (1) He/she shall first send a written request to the Board for such statement of licensure or statements of licensure and shall include in such request the exact location of the office wherein it or each of them is to be posted in lieu of his/her certificate. (2) He/she shall not have a statement of licensure posted in any office other than as authorized by such statement of licensure. (3) A statement of licensure ~~Evidence of licensure~~ shall not be altered, ~~or assigned.~~ (4) A statement of licensure ~~Evidence of licensure~~ is to be immediately ~~shall be~~ surrendered to the Board ~~by the optometrist to whom it is issued upon the occurrence of~~ whenever the license any of the following: (A) His/her certificate becomes expired ~~expires~~, is suspended or is revoked. Further, a Statement of Licensure or a Branch Office License shall be surrendered to the Board whenever the optometrist ceases practice at that location or terminates. (B) He/she terminates ownership of the practice or his/her employment to practice optometry in the office wherein he/she is authorized by such statement of licensure to post the same in lieu of his/her certificate. (C) The office wherein he/she is authorized by such statement of licensure to post the same becomes the only office wherein he/she has ownership of the practice, ~~and/or practices optometry as an employee.~~

Authority cited: Section 3025, Business and Professions Code

~~The **TPL** designation indicates that, in addition to the optometric services described in the TPA section above, the optometrist is also certified to perform lacrimal irrigation and dilation procedures for patients over the age of 12 years.~~

Formatted: Left

TPA

~~TPA is the baseline for the scope of optometry in California. The TPA designation indicates that the optometrist is certified to use therapeutic pharmaceutical agents and the optometrist may treat certain conditions of the human eye, or any of its appendages, with therapeutic pharmaceutical agents. The optometrist may also perform certain procedures on the eye. The therapeutic pharmaceutical agents that may be prescribed, the conditions of the eye, and the authorized procedures are listed in California Business and Professions Code Section 3041.~~

DPA

~~The **DPA** designation indicates that the optometrist is certified to use diagnostic pharmaceutical agents for examination purposes only. **Not certified to treat diseases of the eye or its appendages.**~~

Formatted: Left

Formatted: Font: Bold

No Designation

~~An optometrist with no designation indicates he/she/the optometrist is licensed to conduct exams for the overall health of the eyes and screen for disease, but **not certified to use diagnostic pharmaceutical agents and not certified to treat** diseases of the eye or its appendages. The also prescribe corrective lenses.~~

Formatted: Font: Bold

Formatted: Font: Bold

Proposed Addition to CCR § 1523.5; Abandonment of Applications

- a) An application for a license, permit or registration shall be deemed abandoned and the initial license fee forfeited when the applicant fails to complete the application within one year after it is originally received by the board.
- b) An application submitted subsequent to the abandonment of a previous application shall be treated as a new application.

Proposed Addition to CCR § 1503. Accreditation

150x . For the purposes of the Optometry Practice Act, those colleges and universities offering optometric educational programs leading to the issuance of a Doctor of Optometry degree and accredited by the Accreditation Council on Optometric Education (ACOE) shall be deemed accredited by the board. Accreditation under this section shall automatically terminate upon termination of the program's accreditation by ACOE.