

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

**To:** LRC Committee Members

**Date:** March 23, 2018

**From:** Jessica Sieferman  
Executive Officer

**Telephone:** (916) 575-7184

**Subject: Agenda Item 4 - Update and Discussion with Stakeholders Regarding Mobile Optometric Services; Potential Recommendations to Full Board**

As previously discussed (and explained in more detail [here](#)), the Mobile Clinic workgroup recommended the Legislation and Regulation Committee (LRC) break the mobile clinic solution into two categories:

1. Access for homebound patients who are unable to obtain care from a traditional brick and mortar location
2. Access to mobile services for convenience (e.g., mobile services brought directly to schools, health events, businesses, etc.)

While both important, the workgroup believed there was a more immediate need to address the access issue for those patients who would otherwise not be able to receive treatment. The workgroup further believed addressing this need first would result in easier legislation this session.

The workgroup proposed holding various stakeholder meetings over the next year to draft and vet language to address the second category. The LRC agreed with the approach and directed the workgroup to work with stakeholders on suggested language to address access for homebound patients.

During a December stakeholder meeting, several concerns were raised regarding the suggested requirements allowing optometrists to provide services to homebound patients. These concerns included the following:

- COA expressed concerns with using the term “license.” In short, using the term “license” may imply a different scope of practice than an optometrist license and being perceived as adding another barrier to access rather than expanding access.
- COA expressed concerns with optometrists who would provide “incidental” care to an established patient. They believed optometrists in these incidences should not be required to obtain/maintain a separate license/certificate.
- COA expressed concerns with using the term “audit.”
- Congress of California Seniors expressed concerns related to requiring a patient to release confidential medical information to receive care. The added language specifying the optional release in the consumer notice may alleviate these concerns.
- Staff’s concern related to the consumer notice. Currently, optometrists are required to post a consumer notice educating them on prescription release requirements, who licenses optometrists, and who to contact to file a complaint. By requiring optometrists to provide the Consumer Notice to Patients prior to engaging in the service would alleviate this concern.

After December's meeting, the workgroup drafted the attached language to address the concerns.

During January's Board meeting, the Board voted to combine the mobile clinic workgroup with the LRC in an effort to streamline discussions.

While the workgroup originally planned to address homebound patient care this legislative session, legislation is no longer feasible. Thus, the LRC may wish to address access to homebound patient care and mobile services for convenience simultaneously.

**Action Requested**

Please discuss the attached language, seek feedback from stakeholders, and provide recommendations to the Board on how to proceed.

3070.1.

(a) For purposes of this section, the following terms have the following meanings:

(1) "Health facility" means a health facility as defined in Section 1250 of the Health and Safety Code, exclusive of a hospital defined in subdivision (a) or (b) of that section.

(2) "Residential care facility" means a residential facility, as defined in paragraph (1) of subdivision (a) of Section 1502 of the Health and Safety Code, licensed by the State Department of Social Services, including, but not limited to, the following:

(A) Adult residential facilities.

(B) Adult residential facilities for persons with special health care needs.

(C) Residential care facilities for the chronically ill.

(D) Residential care facilities for the elderly.

(E) Continuing care retirement communities.

(F) Social rehabilitation facilities.

(3) "Home residence" means the dwelling of a person who is unable to obtain optometric services outside of their home due to a disabling physical or mental condition.

(b) (1) No optometrist may engage in the practice of optometry at any home residence without a home residence certificate. The Board may, upon application and payment of the fee prescribed in Section 3152, issue a home residence certificate to a California Therapeutic Pharmaceutical Agents certified optometrist. A home residence certified optometrist shall meet and maintain the requirements in paragraphs (1), (2), and (3) of subsection (c).

(2) Home-residence certificates expire with the optometrist license, unless renewed. Home-residence certificates may be renewed upon application and payment of the fee prescribed in Section 3152.

(3) Optometrists engaging in temporary practice as defined in Section 3070 are not required to obtain a home residence certificate.

~~(b)~~ A Therapeutic Pharmaceutical Agents certified optometrist may engage in the practice of optometry at any health facility or residential care facility provided that all of the following requirements are satisfied:

(1) The optometrist maintains a primary business office, separate from the health facility, ~~or~~ residential care facility, or home residence that meets all of the following requirements:

(A) Is open to the public during normal business hours by telephone and for purposes of billing services or access to patient records.

(B) Is licensed to the optometrist or the employer of the optometrist as a local business with the city or county in which it is located.

(C) Is registered by the optometrist with the Board of Optometry.

(D) Is owned or leased by the optometrist or by the employer of the optometrist.

(E) Is not located in or connected with a residential dwelling.

(2) The optometrist maintains or discloses patient records in the following manner:

(A) Records are maintained and made available to the patient in such a way that the type and extent of services provided to the patient are conspicuously disclosed. The disclosure of records shall be made at or near the time services are rendered and shall be maintained at the primary business office specified in paragraph (1). Records shall be provided to any referring primary care provider.

(B) The optometrist complies with all federal and state laws and regulations regarding the maintenance and protection of medical records, including, but not limited to, the federal Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Sec. 300gg).

(C) Pursuant to Section 3007, the optometrist keeps all necessary records for a minimum of seven years from the date of service in order to disclose fully the extent of services furnished to a patient. Any information included on a printed copy of an original document to a patient shall be certified by the optometrist as being true, accurate, and complete.

(D) If a prescription is issued to a patient, records shall be maintained for each prescription as part of the patient's chart, including all of the following information about the optometrist:

(i) Name.

(ii) Optometrist license number.

(iii) The place of practice and the primary business office.

(iv) Description of the goods and services for which the patient is charged and the amount charged.

(E) A copy of any referral or order requesting optometric services for a patient from the health facility's, home residence, or residential care facility's administrator, director of social services, the attending physician and surgeon, the patient, or a family member shall be kept in the patient's medical record.

(3) The optometrist possesses and appropriately uses the instruments and equipment required for all optometric services and procedures performed within the health facility, ~~or~~ residential care facility, or home residence.

~~(ed)~~ An optometrist who satisfies all of the requirements in this section for the practice of optometry at a health facility or residential care facility shall not be required to comply with Section 3070 with regard to providing notification to the board of each facility or residential care facility at which he or she practices.

(e) Prior to engaging in the practice of optometry at any health facility, residential care facility, or home residence, an optometrist shall provide each patient and the patient's caregiver, if applicable, a Consumer Notice, approved by the Board, which includes, but is not limited to, an optional authorization releasing the patient's medical information to the Board. This authorization may be used to safeguard patients from substandard optometric care, fraud, and violations of the Optometry Practice Act.

(f) An optometrist engaging in the practice of optometry at any health facility, residential care facility, or home residence is subject to periodic quality assurance reviews by the board to ensure compliance with the Optometry Practice Act.

(Added by Stats. 2010, Ch. 604, Sec. 5. Effective January 1, 2011.)

3152. The amounts of fees and penalties prescribed by this chapter shall be established by the board in amounts not greater than those specified in the following schedule:

- (a) The fee for applicants applying for a license shall not exceed two hundred seventy-five dollars (\$275).
- (b) The fee for renewal of an optometric license shall not exceed five hundred dollars (\$500).
- (c) The annual fee for the renewal of a branch office license shall not exceed seventy-five dollars (\$75).
- (d) The fee for a branch office license shall not exceed seventy-five dollars (\$75).
- (e) The penalty for failure to pay the annual fee for renewal of a branch office license shall not exceed twenty-five dollars (\$25).
- (f) The fee for issuance of a license or upon change of name authorized by law of a person holding a license under this chapter shall not exceed twenty-five dollars (\$25).
- (g) The delinquency fee for renewal of an optometric license shall not exceed fifty dollars (\$50).
- (h) The application fee for a certificate to perform lacrimal irrigation and dilation shall not exceed fifty dollars (\$50).
- (i) The application fee for a certificate to treat glaucoma shall not exceed fifty dollars (\$50).
- (j) The fee for approval of a continuing education course shall not exceed one hundred dollars (\$100).
- (k) The fee for issuance of a statement of licensure shall not exceed forty dollars (\$40).
- (l) The fee for biennial renewal of a statement of licensure shall not exceed forty dollars (\$40).
- (m) The delinquency fee for renewal of a statement of licensure shall not exceed twenty dollars (\$20).
- (n) The application fee for a fictitious name permit shall not exceed fifty dollars (\$50).
- (o) The renewal fee for a fictitious name permit shall not exceed fifty dollars (\$50).
- (p) The delinquency fee for renewal of a fictitious name permit shall not exceed twenty-five dollars (\$25).
- (q) The fee for a retired license shall not exceed twenty-five dollars (\$25).
- (r) The fee for a retired license with volunteer designation shall not exceed fifty dollars (\$50).
- (s) The biennial renewal fee for a retired license with volunteer designation shall not exceed fifty dollars (\$50).
- (t) The application fee for a certificate to administer immunizations shall not exceed fifty dollars (\$50).
- (u) The application fee for a homebound patient care license shall not exceed fifty dollars (\$50).
- (v) The renewal fee for a homebound patient care license shall not exceed fifty dollars (\$50).
- (x) The delinquency fee for a homebound patient care license shall not exceed twenty-five dollars (\$25).