

MEMBERS OF THE BOARD

Mark Morodomi, President
Glenn Kawaguchi, OD, Vice President
Debra McIntyre, OD, Secretary
Cyd Brandvein
Jeffrey Garcia, OD
David Turetsky, OD
Lillian Wang, OD
Vacant, Public Member
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**CONSUMER PROTECTION & PUBLIC REALTIONS
AND OUTREACH COMMITTEE
TELECONFERENCED MEETING AGENDA**

MEMBERS OF THE COMMITTEE

Cyd Brandvein, Chair
Jeffrey Garcia, OD
David Turetsky, OD

**Thursday, February 25, 2021
2:00 p.m. until the close of business**

This public meeting will be held via WebEx Events. To participate in the WebEx meeting, please log on to this website the day of the meeting using this link:

<https://dca-meetings.webex.com/dca-meetings/onstage/g.php?MTID=e1ec2fc64ce50c1478acbfe87beb3701e>

Event number: 146 014 6447

Event password: CSBO02252021

NOTICE: Pursuant to Governor Gavin Newsom's Executive Order N-29-20, in response to the COVID-19 pandemic, the meeting is being held entirely telephonically. No physical public location is being made available for public participation. Members of the public may observe or participate using the link above. Due to potential technical difficulties, please consider submitting written comments via email prior to the meeting:
optometry@dca.ca.gov

ORDER OF ITEMS SUBJECT TO CHANGE. ACTION MAY BE TAKEN ON ANY ITEM ON THE AGENDA.

- 1. Call to Order/Roll Call/Establishment of a Quorum**
- 2. Public Comment for Items Not on the Agenda**
Note: The committee may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code §11125, §11125.7(a)].
- 3. Discussion and Possible Action on July 17, 2020 Consumer Protection Committee Meeting Minutes**
- 4. Discussion and Possible Action on January 31, 2020 Public Relations and Outreach Committee Meeting Minutes**
- 5. Discussion and Possible Action on Regulations to Implement Assembly Bill 458 (Nazarian, Chapter 425, Statutes of 2019); Possible Referral to Full Board**

**6. Discussion and Possible Action on Regulations to Implement Assembly Bill 896
(Low, Chapter 121, Statutes of 2020)**

7. Future Agenda Items

8. Adjournment

The mission of the [California State Board of Optometry](#) is to protect the health and safety of California consumers through licensing, registration, education, and regulation of the practice of Optometry and Opticianry.

Meetings of the California State Board of Optometry are open to the public except when specifically noticed otherwise in accordance with the Bagley-Keene Open Meeting Act. Public comments will generally be taken on agenda items at the time the specific item is raised. Time limitations will be determined by the Chairperson. The Board may take action on any item listed on the agenda, unless listed as informational only. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum.

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Board at 916-575-7170, email optometry@dca.ca.gov or mailing a written request to Kristina Eklund at the California State Board of Optometry, 2450 Del Paso Road, Suite 105, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure accessibility of the requested accommodation.

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**CONSUMER PROTECTION COMMITTEE
TELECONFERENCED DRAFT MEETING
MINUTES**

Friday, July 17, 2020

MEMBERS OF THE COMMITTEE

Cyd Brandvein, Chair
Debra McIntyre, OD
David Turetsky, OD

| Members Present | Staff Present |
|------------------------|---|
| Cyd Brandvein, Chair | Shara Murphy, Executive Officer |
| Debra McIntyre, OD | Cheree Kimball, Assistant Executive Officer |
| David Turetsky, OD | Marc Johnson, Policy Analyst |
| | Matt McKinney, Enforcement Analyst |
| | Will McGuire, Legal Counsel |
| | Dani Rodgers, Regulatory Legal Counsel |

Link to audio of meeting:

<https://www.youtube.com/watch?v=yGUetrN1pQM&feature=youtu.be>

1. Call to Order/Roll Call/Establishment of a Quorum

Audio of Discussion: [0:36 / 1:01:23](#)

Ms. Brandvein called the meeting to order at 12:00 p.m. and a 3-0 quorum was established.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: [1:38 / 1:01:23](#)

There were no requests for public comment.

3. Discussion and Possible Action on September 13, 2019 Consumer Protection Committee Meeting Minutes

Audio of Discussion: [2:53 / 1:01:23](#)

There were no requests for public comment.

David Turetsky moved to accept the September 13, 2019 Consumer Protection Committee Meeting Minutes as presented. Debra McIntyre seconded. The Committee voted unanimously (3-0) and the motion carried.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|------------|-----------|----------------|---------------|----------------|
| Ms. Brandvein | X | | | | |
| Dr. McIntyre | X | | | | |
| Dr. Turetsky | X | | | | |

4. Update, Discussion and Possible Action on Adoption of Title 16, California Code of Regulations section 1399.273 and Optician Disciplinary Guidelines Incorporated by Reference

Audio of Discussion: [4:53 / 1:01:23](#)

Mx. Kimball provided announced that the Disciplinary Guidelines have gone through the Dispensing Optician Committee (DOC), and they have been reviewed by the Board's Legal Counsel. Dr. Turetsky asked if this document includes the comments made; Mx. Kimball responded that this is the full package that would go for submission into regulations which includes the disciplinary document, the memo that accompanies it, and the required forms.

Dr. Turetsky drew attention to page 12, Item number 14 - sale or closure of a dispensary location and asked if the Board has any recourse over an individual who is buying or closing practice and is no longer practicing as an optician; Mx. Kimball responded that for opticians on probation who close or sell their dispensary location without completing the required procedures, it would be considered a violation of their probationary term and the Board could seek revocation of their registration.

Ms. Brandvien directed everyone's attention to page nine, under "Probation Monitoring Costs"; noting that sentence number one speaks to monthly costs; however, it would be good to attribute who those costs would be paid by. She requested that staff provide clarity to pages nine and ten for consistency. On page 13, under "Optional Probation Conditions" 33 items are listed; On page 17 there is a similar list growing which at the bottom state "optional". Ms. Brandvein asked if the lists are firm or if both are considered optional regarding what the Board may do during probation; Mr. McGuire explained that the terms that begin on page 13 items 15-33 are optional. On page 17 the paragraph or sentence that follows the word "optional" the Board has the option to add specific terms after the word "optional".

Dr. Turetsky commented on the optional part which reads "respondents shall not engage in fitting and adjusting Lenses or dispensing" etc. may perhaps need to be more specific such as "prescription eyewear and devices" rather than "lenses". Dr. McIntyre suggested "optical eyewear" or "optical devices". Ms. Murphy asked Mr. Johnson for the definition of fitting and adjusting that were set upon through multiple discussions within the Dispensing Optician Committee (DOC). Mr. Johnson read the proposed text from the optician statutory review aloud.

Ms. Murphy clarified that the definitions and specifications read by Mr. Johnson are proposed changes and not current law. She suggested placing these definitions into the Dispensing Optician Disciplinary Guidelines to be clear since there is nothing to reference because these are suggested changes that the Board will need to put into legislation. Committee agrees.

Ms. Brandvein requested clarification around monitoring costs and type of payment since installments are not necessarily monthly payments. She noted that clarifying language is needed in this section for consistency; Mx. Kimball agreed to analyze the

cost recovery and the probation monitoring cost language and ensure that it is clear what the Board is asking for, and that it is consistent.

There was no public comment.

David Turetsky moved to adopt the amendments as discussed and provide a review by Dr. McIntyre and upon her review and approval pass the document to the full Board for their discussion and potential approval. Cyd Brandvein seconded. The Committee voted unanimously (3-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|------------|-----------|----------------|---------------|----------------|
| Ms. Brandvein | X | | | | |
| Dr. McIntyre | X | | | | |
| Dr. Turetsky | X | | | | |

5. Review, Discussion and Possible Action on Optometry Strategic Plan

A. Presentation by SOLID on Strategic Plan

B. Existing 2017-2020 Optometry Strategic Plan Items

C. Potential 2021 Optometry Strategic Plan Items

Audio of Discussion: [47:29 / 1:01:23](#)

Trish St. Clair with SOLID provided a presentation on the Strategic Plan. She explained that DCA requires that each board have a strategic plan. SOLID planning is a neutral party to handle the strategic planning through team building and organized efforts. SOLID helps the board accomplish success. Strategic planning always begins with where the board is currently; its mission, values and environmental analysis. Next is where the board is going (vision) and then how it will get there (goals and objectives). She announced that staff may begin submitting objectives now. Ms. St. Clair provided the Board's 2017-2020 strategic plan progress.

There was no public comment.

6. Future Agenda Items

Audio of Discussion: [59:24 / 1:01:23](#)

There were no requests for future agenda items. There was no public comment.

7. Adjournment

Meeting adjourned at 1:01 p.m.

MEMBERS OF THE BOARD

Mark Morodomi, President
Glenn Kawaguchi, OD, Vice President
Debra McIntyre, OD, Secretary
Cyd Brandvein
Madhu Chawla, OD
Martha Garcia, CLD, SLD
Rachel Michelin
Maria Salazar Sperber
David Turetsky, OD
Lillian Wang, OD



**PUBLIC RELATIONS AND OUTREACH COMMITTEE
DRAFT MEETING MINUTES**

Commented [JM1]: Since the PROC was absorbed into the CPC last fall, CPC may review the minutes for approval. If members choose to abstain due to not being in that meeting and motion cannot be passed, the minutes will be posted as draft minutes.

MEMBERS OF THE COMMITTEE

Maria Salazar-Sperber, JD, Chair
Madhu Chawla, OD
Rachel Michelin
David Turetsky, OD

Friday, January 31, 2020

Teleconference Meeting Locations:

DCA Del Paso – Sequoia Room
2420 Del Paso Road, Room 109
Sacramento, CA 95834

California Retailers
Association
1121 L Street, Suite 607
Sacramento, CA 95814

Stevenson Ranch Library –
Meeting Room
25950 The Old Road
Stevenson Ranch, CA 91381

| Members Present | Staff Present |
|----------------------------------|---|
| Maria Salazar-Sperber, JD, Chair | Shara Murphy, Executive Officer |
| Madhu Chawla, OD | Cheree Kimball, Assistant Executive Officer |
| Rachel Michelin | Marc Johnson, Policy Analyst |
| David Turetsky, OD | Sabina Knight, Legal Counsel |
| | |
| Members Absent | Guest List |
| | On File |

Link to audio of meeting:

https://www.optometry.ca.gov/meetings/20200131_proc_audio.mp3

1. Call to Order/Roll Call/Establishment of a Quorum

Audio of Discussion: 0:00 / 50:50

Dr. David Turetsky called the meeting to order at 10:00am and took roll. He was present with staff at the DCA Del Paso, Sacramento location – no public members present; Rachel Michelin was present at the California Retailers Association location – no public members present; Dr. Madhu Chawla was present at the Stevenson Ranch Library location – no public members present; and Maria Salazar-Sperber was present in DC and thus unable to participate. She monitored the discussion today. A 3-1 quorum was established.

2. Public Comment for Items Not on the Agenda

Audio of Discussion: 1:19 / 50:50

There were no public comments.

3. Discussion and Possible Action Regarding Meeting Minutes

Audio of Discussion: 1:24 / 50:50

A. June 29, 2018 Committee Meeting

Madhu Chawla moved to approve upon edit the June 29, 2018 Committee Meeting minutes. Rachel Michelin seconded. The Committee voted unanimously (3-0) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------------|-----|----|---------|--------|---------|
| Ms. Salazar-Sperber | | | | X | |
| Dr. Chawla | X | | | | |
| Ms. Michelin | X | | | | |
| Dr. Turetsky | X | | | | |

4. Update, Discussion and Possible Action Regarding Outreach Campaigns

Audio of Discussion: 2:49 / 50:50

Ms. Murphy reported that regarding one of the two major initiatives of the cosmetic contact lens campaign: staff was fortunate that DCA was willing to lend some of their resources to development of the YouTube video: [YouTube video](#) that was shown at the August 2019 Board Meeting. The intention is to use the video again, with a longer lead time, for 2020. Dr. Turetsky asked how many views the video received? Mr. Johnson stated reported it received 22 views.

Dr. Turetsky noted that the fact the video has only received 22 views shows that only people directly related to this in some way via the Board or DCA who have viewed it. He believes that optometrists and opticians should be playing it in their offices and made available on their websites. Ms. Murphy announced that staff has had conversations with the California Optometric Association (COA) regarding attending their House of Delegates meeting next month; and this would be great content to play for them. She suggested putting together an outreach packet that asks them to show the video to their clients during the months of August, September and October.

Dr. Turetsky inquired about the Board's "other" outreach campaigns. Ms. Murphy announced that the Board has approved an outreach campaign around the optician licensing program, and staff has been working with DCA and the DOC to develop some messaging.

5. Update and Discussion Regarding Optometry Board's Website

Audio of Discussion: 29:23 / 50:51

Ms. Murphy reported that as of July 2019 each state agency must post on the home page of the agency's website a signed certification that the agency's website is compliant with specified accessibility standards set by the Americans with Disabilities Act (ADA). Screen readers ensure

that individuals who are visually impaired can read the contents of the website. Ms. Murphy explained that enforcement documents that have come from the Department of Justice are not compliant. A Department wide initiative has been implemented to remove or remediate these contents/documents to screen reader friendly versions. Staff was informed this week that there is a liability of around \$116,000. The Department plans to prepare a Spring budget letter which would give the Board the authority to spend \$116,000 from its reserve to meet this remediation by July 1, 2020. Ms. Murphy clarified that the Board is complying with AB 434 which gives state agencies the deadline of July 1, 2019 and thereafter to comply; AB 434 is applied to all businesses.

6. Update, Discussion and Possible Action Regarding Strategic Plan Outreach Objectives and Deliverables

Audio of Discussion: 35:52 / 50:51

Ms. Murphy reported on a plan to substantiate the spending authority needed for targeted statewide media around the need for parents to take their children for comprehensive eye exams regardless of whether they are screened at school. This plan would provide a solid research base to submit a budget change proposal (BCP) to fund the outreach campaign. Ms. Michelin stated that the time to push legislation is now; the politics is different currently then a few years ago. The politics are much more favorable for this agenda currently. She is passionate to see this issue across the finish line.

Ms. Michelin and Dr. Chawla suggested not performing any public relations around this issue at this time, and to save the Board's resources for something more beneficial towards the total cause. Dr. Chawla clarified that Ms. Murphy's efforts are more beneficial in tandem with the legislative venue. This issue was held over to the Legislative and Regulation Committee meeting.

7. Future Agenda Items

Audio of Discussion: 49:58 / 50:51

There were no future agenda items suggested.

8. Adjournment

Meeting adjourned at 10:49 a.m.



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 25, 2021 |
| TO | Consumer Protection Committee |
| FROM | Marc Johnson, Policy Analyst |
| SUBJECT | Agenda Item #5: Discussion and Possible Action on Regulations to Implement Assembly Bill 458 (Nazarian, Chapter 425, Statutes of 2019); Possible Referral to Full Board |

Summary:

This regulatory proposal would implement [Assembly Bill 458 \(Nazarian, Chapter 425, Statutes of 2019\)](#), which amended Business and Professions Code (BPC) Section 3070.1.

BPC 3070.1 authorizes a TPA-certified optometrist to practice optometry in the residence of an individual who is unable to obtain optometric services outside of their home due to a disabling physical or mental condition, provided they complete a permit application, pay fees, and meet certain record retention and patient disclosure requirements. Additionally, the optometrist is required to provide a patient notice prescribed by the Board and an authorization to release the patient’s medical information to the Board if desired for specified enforcement purposes.

This proposal would create a new Title 16, California Code of Regulations (CCR) Section 1507.5 (Home Residence Permits) and amend existing Section 1524 (Fees) by doing the following:

- Creating an initial application for a home residence permit;
- Creating an application for renewal of a home residence permit;
- Sets out requirements for a consumer notice to be provided to the patient and an acknowledgment that the patient has received it;
- Allows release of a patient’s medical record to the Board for enforcement purposes;
- Sets the application and renewal fees at \$50.00.

For the text and rationale of this proposal, please see attachment A. For the text of BPC 3070.1, please see attachment B.

Suggested Motion: *“I move to recommend to the full Board the proposed regulatory text for Title 16, California Code of Regulations Sections 1507.5 and 1524 as presented and discussed here today.”*

Implementation of AB 458 – Proposed Text

Adopt Section 1507.5 of Article 2 of Division 15 of Title 16 of the California Code of Regulations as follows:

§1507.5. Home Residence Permits

(a) A licensed optometrist, who is certified to use therapeutic pharmaceutical agents pursuant to Business and Professions Code section 3041.3 and seeks to obtain a home residence permit pursuant to section 3070.1, shall complete an application which shall be accompanied by payment of the fee pursuant to Section 1524 in this Article. The initial home residence permit shall be in effect for two years or until the licensee's optometry license renewal date, whichever comes first. The application shall require the following information:

- (1) First, Middle and Last Name;
- (2) Address of the optometrist's primary business office, that the optometrist maintains pursuant to Business and Professions Code section 3070.1(c)(1);
- (3) Primary business office telephone Number;
- (4) Email address;
- (5) Current license number;
- (6) A declaration by the applicant that the information provided including any accompanying documents is true and accurate, and that the applicant understands and agrees that any misstatements of material facts may be cause for denial of the application and discipline by the board, under the penalty of perjury; and
- (7) A declaration by the applicant under the penalty of perjury that the applicant will comply with all state and federal recordkeeping, reporting, and patient record disclosure requirements, including requirements as set forth in Section 3070.1(c).

(b) A licensed optometrist who seeks to renew a home residence permit shall complete a renewal application which shall be accompanied by payment of the fee pursuant to Section 1524 in this Article. The renewal permit shall expire on the same date the licensee's optometry license expires. The application shall require the following information:

- (1) First, Middle and Last Name;
- (2) Address of the optometrist's primary business office, which the optometrist maintains pursuant to Business and Professions Code section 3041.3(c)(1);
- (3) Primary business office telephone number;
- (4) Email address;
- (5) License number;
- (6) A declaration by the applicant that the information provided including any accompanying documents is true and accurate, and that the applicant understands and agrees that any misstatements of material facts may be cause for denial of the application and discipline by the board, under the penalty of perjury; and
- (7) A declaration by the applicant under the penalty of perjury that the applicant will comply with all state and federal recordkeeping, reporting, and patient record

Commented [JM1]: Proposed Sect.1507.5(a) implements BPC Sect. 3070(b)(1), which requires initial application to be made via a form. The form's requirements are set out within the regulation since it will likely be made online via BreEZe.

Commented [JM2]: Proposed Sect. 1507.5(b) implements BPC Sect. 3070(b)(2), which requires a renewal application be made. Similar to 1507.5(a).

disclosure requirements, including requirements as set forth in Business and Professions Code section 3070.1(c).

(c) Consumer notice.

(1) Each patient shall be issued a consumer notice. A copy of the consumer notice may be provided to each patient or the patient's caregiver either in-person or electronically.

(2) The notice shall be in a minimum of 14-point font and must contain the following information:

(A) The name, license number, email address, telephone number, primary business address and normal business hours of the optometrist;

(B) At a minimum, the additional following information:

CONSUMER NOTICE

The practice of optometry in California is regulated by the California State Board of Optometry. The Board of Optometry receives and investigates all consumer complaints involving the practice of optometry. Complaints or grievances involving a California-licensed optometrist or optician should be directed in writing to:

California Department of Consumer Affairs
Board of Optometry
2540 Del Paso Road, Suite 105
Sacramento, CA 95834
Phone: 1-866-585-2666 or 916-575-7170
Email: optometry@dca.ca.gov
Website: optometry.ca.gov

PRESCRIPTIONS

Optometrists are required to provide patients with a copy of their ophthalmic lens prescriptions as follows:

- Spectacle prescriptions: Release upon completion of exam.
- Contact lens prescriptions: Release upon completion of exam or upon completion of the fitting process.

VOLUNTARY RELEASE OF PATIENT'S MEDICAL INFORMATION

The patient may choose to release their medical information related to the optometrist's provision of optometry services to the Board of Optometry. This authorization is voluntary, and the medical information will only be used to investigate complaints and to conduct the Board of Optometry's enforcement duties under Optometry Practice Act.

(3) Each patient, or the patient's caregiver if applicable, must sign and acknowledge that they have received the consumer notice. The signature must

Commented [JM3]: Proposed Sect 1507.5(c) implements BPC Sect. 3070.1(e), which requires a patient notice be given with specific information and the patient to acknowledge receipt. Notice and receipt can be done electronically.

Staff requests discussion on additional text to be included on the notice.

Commented [JM4]: Question was raised if the statute requires each patient, regardless of location, each sign a notice? In the case of a care facility or retirement home, can one notice suffice for the entire facility and be given to the medical or social service director? Or should the notice in proposed section (1) be separate from the signed authorization listed in (2) and (3)?

Legal Counsel advises the statute sets out individuals, not a care facility on behalf of an individual.

What about a patient's guardian who is only with the patient once a month?

be accompanied by a printed patient or patient caregiver's name. The signed acknowledgement must be retained in the patient's file.

Commented [JM5]: Can this be on the back of the prescription rather than a separate page?

(d) The authorization provided by the optometrist to the patient or patient's caregiver to release the patient's medical information to the Board of Optometry shall be signed separately from the signature required in subdivision (c)(3) above.

Note: Authority cited: Sections 3025 and 3070.1 Business and Professions Code.
Reference: Section 3070.1, Business and Professions Code.

Amend Section 1524 of Article 5 of Division 15 of Title 16 of the California Code of Regulations as follows:

§1524. Fees

- (a) Application fee for certificate of registration as an optometrist by examination \$275
- (b) Biennial renewal of a certificate of registration as an optometrist \$425
- (c) Delinquency fee for failing to renew a certificate of registration timely \$50
- (d) Application fee for a branch office license \$75
- (e) Annual renewal of a branch office license \$75
- (f) Penalty fee for failure to renew a branch office license timely \$25
- (g) Issuance fee for a certificate of registration or upon change of name of a person holding a certificate of registration \$25
- (h) Application fee for a fictitious name permit \$50
- (i) Annual renewal of a fictitious name permit \$50
- (1) Delinquency fee for failure to renew a fictitious name permit timely \$25
- (j) Application fee for a statement of licensure \$40
- (1) Biennial renewal of a statement of licensure \$40
- (2) Penalty fee for failure to renew a statement of licensure timely \$20
- (k) Application fee for a certificate to use therapeutic pharmaceutical agents \$25
- (l) Application fee for approval of a continuing education course \$50
- (m) Application fee for a certificate to treat primary open angle glaucoma \$35
- (n) Application fee for a certificate to perform lacrimal irrigation and dilation \$25
- (o) Application fee for a retired license \$25
- (p) Application fee for a retired license with a volunteer designation \$50
- (r) Application fee for an immunization certification \$50
- (s) Application fee for a home residence permit is \$50.
- (t) Renewal fee for a home residence permit is \$50.
- (u) Delinquency fee for a home residence permit is \$25.

Note: Authority cited: Sections 3025, 3041, 3044, 3075, 3152 and 3152.5, Business and Professions Code. Reference: Sections 3041, 3075, 3078, 3151, 3151.1, 3152 and 3152.5, 3070.1, Business and Professions Code.

Implementation of AB 458

Bill text: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB458

Business and Professions Code Section 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 primary residence of an individual who is restricted by a disabling physical or mental condition. “Home residence” does not include a health facility, as defined in Section 1250 of the Health and Safety Code, or a community care facility, as defined in subdivision (a) of Section 1502 of the Health and Safety Code, but does include an individual condominium unit, apartment, single-family home, cooperative unit, mobilehome, or trailer, if it is used as a residence.
- (b) (1) An optometrist who is certified as a therapeutic pharmaceutical agent pursuant to Section 3041.3 may, in the form and manner prescribed by the board, submit an application to the board for a home residence permit, and pay all applicable fees prescribed in Section 3152. The board shall, upon application and payment of the fee prescribed in Section 3152, issue a home residence permit to an optometrist certified as a therapeutic pharmaceutical agent pursuant to Section 3041.3. A home residence permit authorizes the holder to engage in the practice of optometry at a home residence as specified in this section.
- (2) A home residence permit shall expire on the same date the licensee’s optometry license expires. A home residence optometrist may renew the permit by submitting an application, in the form and manner prescribed by the board, to the board for renewal, and paying any applicable fees prescribed in Section 3152.
- (3) A person engaging in the temporary practice of optometry, as defined in subdivision (b) of Section 3070, is not required to obtain a home residence permit in order to engage in the temporary practice of optometry at a home residence.
- (c) An optometrist may engage in the practice of optometry at any health facility or residential care facility, and in a home residence, if all of the following requirements are satisfied:
- (1) The optometrist maintains a primary business office, separate from the health facility, 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).
 - (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 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, residential care facility, or home residence.
- (4) The optometrist provides each patient and, if applicable, the patient's caregiver, a consumer notice prescribed by the board that includes the following:
- (A) The name, license number, primary telephone number, and primary business address of the optometrist.
 - (B) Information for filing a complaint with the board.
- (d) An optometrist who satisfies all of the requirements in this section for the practice of optometry at a health facility, residential care facility, or home residence shall not be required to comply with Section 3070 with regard to providing notification to the board of each health facility, residential care facility, or home residence at which the optometrist practices.

(e) Before engaging in the practice of optometry at a home residence, an optometrist shall provide each patient and, if applicable, the patient's caregiver, both of the following:

(1) A consumer notice prescribed by the board that includes any information the board deems appropriate to safeguard the public from substandard optometric care, fraud, and other violations of the act. The patient, or, if applicable, the patient's caregiver, shall sign the consumer notice.

(2) An authorization to release the patient's medical information related to the optometrist's provision of optometry services to the board. The authorization shall disclose that the patient's authorization to release medical information to the board is voluntary and that the medical information shall be used by the board only to investigate complaints and to conduct the board's enforcement duties under the act.

(f) An optometrist subject to subdivision (e) shall maintain in the patient's file a copy of the signed consumer notice described in paragraph (1) of, and, if signed, the signed authorization described in paragraph (2) of, subdivision (e).

(g) The board may adopt regulations to conduct quality assurance reviews for optometrists engaging in the practice of optometry at a home residence.

(Amended by Stats. 2019, Ch. 425, Sec. 1. (AB 458) Effective January 1, 2020.)



ISSUE MEMORANDUM

| | |
|----------------|---|
| DATE | February 25, 2021 |
| TO | Consumer Protection and Public Relations Committee |
| FROM | Marc Johnson, Policy Analyst |
| SUBJECT | Agenda Item #6: Discussion and Possible Action on Regulations to Implement Assembly Bill 896 (Low, Chapter 121, Statutes of 2020) |

Summary:

This regulatory proposal would implement Assembly Bill 896 (Low, Chapter 121, Statutes of 2020), which created a new [Business and Professions Code \(BPC\) Section 3070.2](#) (Attachment A). AB 896 was signed into law on September 24, 2020, and does the following:

- Defines “mobile optometric office” to mean a trailer, van, or other means of transportation in which the practice of optometry is performed, and which is not affiliated with an approved optometry school in California;
- Limits ownership of a mobile optometric office to a tax-exempt nonprofit or charitable organization that provides optometric services to patients regardless of the patient’s ability to pay;
- Requires the owner and operator of a mobile optometric office to register with the board and to provide specified information on registering;
- Prohibits the owner and operator of a mobile optometric office from accepting payment for services other than those provided to Medi-Cal beneficiaries;
- Requires the owner and operator of a mobile optometric office to file a quarterly report with the board and to provide a consumer notice prescribed by the board to patients;
- Requires the Board to adopt regulations establishing a registry for Mobile Optometric Offices and set a registration fee;
- Requires the owner and operator to maintain records and make them available to the Board upon inspection;
- Requires licensed optometrists to be TPA-certified requires a licensed optometrist who provides patient care in conjunction with a mobile optometric office to obtain a statement of licensure with the mobile optometric office’s address as registered with the Board.

As of February 17, 2021, staff is continuing work with Legal Counsel on this proposal. Staff requests committee discussion and direction on the current draft text and attachments as presented, with a recommendation that staff continue work and bring back to the next committee meeting in April.



Proposed Text of new Title 16, California Code of Regulations (CCR) Sections 1583 – 1586 (Attachment B)

The proposed text adopts a new Article 13 with the following new sections:

Section 1583 General Provisions. Contains a definitions section, sets out the statement of licensure requirement for a licensed optometrist, and establishes fees.

Section 1584 Registration for Ownership and Operations of Mobile Optometric Offices. This proposed section incorporates two separate forms incorporated by reference for the registration of mobile optometric offices.

Subsection (a) includes the “Application for Registration and Ownership and Operation of Mobile Optometric Offices” by reference, which is required to be submitted to the Board by a charitable organization before beginning services. It establishes timelines for registration, a two-year registration period before renewal and various approval conditions. Additionally, the owner and operator must agree to have a custodian of patient records in case of cessation of operation.

Subsection (b) includes the “Application for Mobile Optometric Office Permit”, which is required to be submitted to the Board by an owner and operator to register individual mobile optometric offices. It establishes timelines for registration, a two-year registration period before renewal and various approval conditions. Each mobile optometric office would be issued a unique registration number by the Board for tracking purposes.

In discussions with Dr. Turetsky, the concern has been raised about the definition of a mobile optometric office. BPC Section 3070.2 explicitly says “trailer, van or other means of transportation”. Originally, it was “trailer, van or any other location optometry is practiced” but it was changed to the current text of “other means of transportation. Dr. Turetsky feels the future of optometric care probably does not involve a large van with optometric equipment; it will probably be a portable unit which can be carried in a vehicle and taken out and set up in a large room. It is unclear how a “unit” would be defined under current law; staff requests committee discussion on this issue.

Section 1585 Mobile Optometric Office Reporting Requirements.

This proposed section incorporates two separate forms for owner and operator reporting.

Subsection (a) requires the “Owner and Operator Quarterly Report Form” incorporated by reference to be filed by the owner and operator every quarter with the Board. It requires each patient encounter made at each mobile optometric office to be assigned a unique reference number for tracking purposes.

Subsection (b) includes the “Mobile Optometric Office Patient Complaint Form” incorporated by reference, which requires the owner and operator to document any complaints made by a patient, which is cross-referenced on the quarterly report form. The complaint and follow-up are required to be submitted separately on this form as part of the quarterly report and maintained in the patient file.

Section 1586 Patient Notification and Records.

This proposed section sets out requirements for a proposed patient notice, which must be provided to each patient or patient’s caregiver or guardian. It is largely based on the existing consumer notice in CCR Section 1522. The notice contains information on the optometrist who provided services, the owner and operator name and contact information, and information on how to file a complaint with the Board.

Application for Registration for Ownership and Operation of Mobile Optometric Offices (Form ONOP1, 02-21) (Attachment C)

This proposed form is first step for a charitable organization to be registered with the Board as an owner and operator of mobile optometric offices.

Application for Mobile Optometric Office Permit (Form MOO1 02/21) (Attachment D)

This proposed form would be the second step for an owner and operator to register with the Board. Each mobile optometric office would require a separate form filled to be filed by the owner and operator before beginning operation.

Owner and Operator Quarterly Report Form” (Form QTR1 (02-2021) (Attachment E)

This form contains the requirements for a quarterly report to be filed with the Board by the 3rd day of each quarter. The report requires each mobile optometric office visit to be noted with the following information:

- Board issued tracking number for each mobile optometric office;
- Dates and location of each visit;
- Names and contact information for the sponsoring organization
- Names of optometrists and other staff (opticians or unlicensed staff) providing care;
- List of optometrists who are available for follow up care.

Each instance of patient care would be noted on the report in the following manner:

- Unique patient reference number, patient name and date of birth;
- Care provided to each patient;
- Mobile optometric offices dates of operations, locations and unit number;
- Names of optometrists and other staff who provided care;



- Name and contact information of sponsoring organization;
- If a complaint was received, it would be noted on the quarterly report and documented using Form COM1.

Although staff intends to work with OIS to create a reporting system within BreZE or via another electronic method, it may take 1-2 years to get a system into place. Thus, staff proposes that the initial reports may be filed with the Board as a comma delineated spreadsheet (such as Microsoft Excel).

Mobile Optometric Office Patient Complaint Form” (Form COM1 (02-2021) (Attachment F)

This form is used to document each patient complaint received by the owner and operator and is required to be maintained in the patient file and submitted to the Board as part of the quarterly report. The form lists the following:

- Name and contact info for each complainant;
- Complainant/Patient reference number;
- Sponsoring organization;
- Mobile optometric office reference number;
- Date care provided;
- Names of personnel who provided care;
- Complainant’s requested resolution, description and dates follow up care was provided.

Text of Business and Professions Code Section 3070.2

(a) As used in this section, “mobile optometric office” means a trailer, van, or other means of transportation in which the practice of optometry, as defined in [Section 3041](#), is performed and which is not affiliated with an approved optometry school in California.

(b) This section shall not apply to any of the following:

(1) Optometric services provided remotely by an approved optometry school in California that meets the requirements of [Section 1507 of Title 16 of the California Code of Regulations](#).

(2) A licensee engaged in the practice of optometry at a facility defined in [paragraph \(1\), \(2\), or \(3\) of subdivision \(a\) of Section 3070.1](#).

(3) A federally qualified health center, as defined in [Section 1396d\(j\)\(2\)\(B\) of Title 42 of the United States Code](#).

(4) A nonprofit or charitable organization exempt from taxation pursuant to [Section 501\(c\)\(3\), 501\(c\)\(4\), or 501\(c\)\(6\) of the Internal Revenue Code \(26 U.S.C. Sec. 501\(c\)\(3\), 501\(c\)\(4\), or 501\(c\)\(6\)\)](#), which utilizes the volunteer services of licensees engaging in the temporary practice of optometry pursuant to [subdivision \(b\) of Section 3070](#).

(5) A free clinic, as defined in [subparagraph \(B\) of paragraph \(1\) of subdivision \(a\) of Section 1204 of the Health and Safety Code](#), which is operated by a clinic corporation, as defined in [paragraph \(3\) of subdivision \(b\) of Section 1200 of the Health and Safety Code](#).

(6) A specialized vision health care service plan, as defined in [subdivision \(f\) of Section 1345 of the Health and Safety Code](#), formed and existing pursuant to the provisions of the Nonprofit Corporation Law (Division 2 (commencing with [Section 5000](#)) of [Title 1 of the Corporations Code](#)).

(c) The ownership and operation of a mobile optometric office shall be limited to a nonprofit or charitable organization that is exempt from taxation pursuant to [Section 501\(c\)\(3\) or Section 501\(c\)\(4\) of the United States Internal Revenue Code](#) that provides optometric services to patients regardless of the patient’s ability to pay. The owner and operator of a mobile optometric office shall register with the board. The owner and operator of a mobile optometric office and the optometrist providing services shall not accept payment for services other than those provided to Medi-Cal beneficiaries. The medical operations of the mobile optometric office shall be directed by a licensed optometrist and in every phase shall be under the exclusive control of the licensed optometrist, including the selection and supervision of optometric staff, the scheduling of patients, the amount of time the optometrist spends with patients, the fees charged for optometric products and services, the examination procedures, the treatment provided to patients, and the followup care pursuant to this section.

(d) The owner and operator of the mobile optometric office registering with the board pursuant to subdivision (c) shall provide the following information to the board:

(1) The description of services to be rendered within the mobile optometric office.

- (2) The names and optometry license numbers of optometrists providing patient care.
 - (3) The dates of operation and cities or counties served.
 - (4) A description of how followup care will be provided.
 - (5) A catalog of complaints, if any.
- (e) The owner and operator of the mobile optometric office, on a form prescribed by the board, shall file a quarterly report containing the following information:
- (1) A list of all visits made by the mobile optometric office, including dates of operation, address, care provided, and names and license numbers of optometrists who provided care.
 - (2) A summary of all complaints received by the mobile optometric office, the disposition of those complaints, and referral information.
 - (3) An updated and current list of licensed optometrists who have provided care within the mobile optometric office since the last reporting period.
 - (4) An updated and current list of licensed optometrists who are available for followup care as a result of a complaint on a volunteer basis or who accept Medi-Cal payments.
- (f) The owner and operator of the mobile optometric office shall notify the board of any change to the information provided to the board pursuant to subdivision (d) within 14 days.
- (g)(1) The owner and operator of the mobile optometric office shall provide each patient and, if applicable, the patient's caregiver or guardian, a consumer notice prescribed by the board that includes the following:
- (A) The name, license number, and contact information for the optometrist.
 - (B) Optometrists providing services at a mobile optometric office are regulated by the board and the contact information for filing a complaint with the board.
 - (C) Information on how to obtain a copy of the patient's medical information.
 - (D) Information on followup care available for the patient, including a list of available Medi-Cal or volunteer optometrists. This list shall be updated every six months and is subject to the inspection by the board.
 - (E) Any other information the board deems appropriate to safeguard the public from substandard optometric care, fraud, or other violation of this chapter.
- (2) The optometrist shall maintain a copy of the consumer notice described in paragraph (1) in the patient's medical record.

(3) Upon request by the patient's caregiver or guardian, a copy of the prescription made for the patient shall be provided.

(h) Any person who is employed by the owner and operator of the mobile optometric office to drive or transport the vehicle shall possess a valid driver's license.

(i) By January 1, 2022, the board shall adopt regulations establishing a registry for the owners and operators of mobile optometric offices and shall set a registration fee at an amount not to exceed the reasonable regulatory costs of administration.

(j) The board may adopt regulations to conduct quality assurance reviews for the owner and operator of a mobile optometric office and optometrists engaging in the practice of optometry at a mobile optometric office.

(k) The board shall not bring an enforcement action against an owner and operator of a mobile optometric office based solely on its affiliation status with an approved optometry school in California for remotely providing optometric service before January 1, 2022.

(l) The owner and operator of a mobile optometric office shall maintain records in the following manner, which shall be made available to the board upon request for inspection:

(1) 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.

(2) The owner and operator of a mobile optometric office 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](#)).

(3) Pursuant to [Section 3007](#), the owner and operator of the mobile optometric office 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 owner and operator of the mobile optometric office as being true, accurate, and complete.

(4) 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:

(A) Name.

(B) Optometrist license number.

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

(D) Description of the goods and services for which the patient is charged and the amount charged. If no charge was made to the patient, a description of the goods and services provided.

(5) The owners and operators of a mobile optometric offices shall maintain accurate records of the mobile optometric offices, including vehicle registration numbers and the year, make, and model of each trailer or van.

(m) Any licensed optometrist who provides patient care in conjunction with a mobile optometric office shall obtain a statement of licensure pursuant to [subdivision \(a\) of Section 3070](#) with the mobile optometric office's address as registered with the board. If the licensee is not practicing optometry at a location other than with the owner and operator of the mobile optometric office, then the licensee shall list as their primary address of record the owner and operator of the mobile optometric office's address as registered with the board.

(n) All examinations performed at the mobile optometric office shall be performed by a licensed optometrist who is certified to use therapeutic pharmaceutical agents pursuant to [Section 3041.3](#).

(o) This section does not apply to optometry services defined in [Section 3070.1](#).

(p) This section shall remain in effect only until July 1, 2024, and as of that date is repealed.

**TITLE 16. CALIFORNIA STATE BOARD OF OPTOMETRY
PROPOSED LANGUAGE**

LEGEND

| | |
|-----------------------------|---|
| <u>Underlined</u> | Indicates proposed amendments or additions to the existing regulation. |
| Strikeout | Indicates proposed deletions to the existing regulation. |

Adopt Article 13 and Sections 1583, 1584, 1585 and 1586 of Division 15 of Title 16 of the California Code of Regulations (CCR) to read as follows:

Article 13. Mobile Optometric Offices

§1583 General Provisions.

(a) For the purposes of this article, the following definitions shall apply:

(1) "Mobile optometric office" means a trailer, van, mobile equipment, or other means of transportation in which the practice of optometry, as defined in Section 3041, is performed and which is not affiliated with an approved optometry school in California.

(2) "Owner and operator" means a nonprofit or charitable organization that is exempt from taxation pursuant to Title 26, Section 501(c)(3) or Title 26, Section 501(c)(4) of the United States Internal Revenue Code who operates single or multiple mobile optometric offices.

(3) "Permit" means a certificate issued by the Board for each mobile optometric office registered pursuant to this article.

(5) "Registration" means a certificate issued by the Board to an owner and operator registered with the Board pursuant to this article.

(6) "Optometrist in charge" means a licensed optometrist employed by the owner and operator who is responsible for the exclusive control of each mobile optometric office and its operations pursuant to Business and Professions Code section 3070.2(c).

(b) This article shall not apply to any facilities, services, or clinics set forth in Business and Professions Code sections 3070.1 or 3070.2(b).

(c) Each licensed optometrist operating as part of a mobile optometric office shall maintain a statement of licensure pursuant to Business and Professions Code section 3070(a) with the mobile optometric office's physical address as registered with the Board. If the licensee is not practicing optometry at a location other than with the owner and operator of the mobile optometric office, then the licensee shall list as their primary address of record the owner and operator of the mobile optometric office's address as registered with the Board.

(d) For the purposes of this article, the following fees are established:

- (1) Application fee for an owner and operator registration is \$1,500.00.
- (2) Renewal fee for an owner and operator registration is \$1,000.00.
- (3) Delinquency fee for an owner and operator registration is \$500.00.
- (4) Application fee for a mobile optometric office permit is \$100.00.
- (5) Renewal fee for a mobile optometric office permit is \$100.00.
- (6) Delinquency fee for a mobile optometric office permit is \$50.00.

Note: Authority cited: Sections 3025, 3041, 3070.2, Business and Professions Code.
Reference: Sections 3041, 3041.3, 3070, 3070.1, 3070.2, Business and Professions Code.

§1584 Registration for Ownership and Operations of Mobile Optometric Offices

(a) Application for Registration as an Owner and Operator of Mobile Optometric Offices. An owner and operator, who wishes to offer optometric services pursuant to Business and Professions Code Section 3070.2, shall obtain approval from the Board prior to beginning operations by completing the “Application for Registration for Ownership and Operation of Mobile Optometric Offices” (Form ONOP1, 02-21), which is hereby incorporated by reference. The application shall be accompanied by evidence of compliance with the requirements of this section and a non-refundable fee of \$1,500.00.

(1) The Board shall inform an applicant for an owner and operator registration in writing within sixty (60) calendar days from the receipt of an application whether the application is complete and accepted for filing or is deficient and what further specific information is required. If the applicant does not respond within thirty (30) calendar days to the Board’s request for further information, the application will be deemed abandoned.

(2) Upon receipt of further information provided as part of subdivision (1) herein, if required, the application shall be deemed a complete application. The Board shall decide within sixty (60) days after the filing of a completed application whether the applicant meets the requirements for owner and operator registration.

(3) Upon approval, the registration shall be valid for two (2) years from the date of approval and the owner and operator shall be assigned an identifying number by the Board which shall be used in all correspondence and forms.

(4) Owner and operator registration approval is not retroactive.

(5) An owner and operator registration are not transferrable.

(6) If the owner and operator should cease operations, the Board shall be notified in writing within fourteen (14) days of cessation.

(A) The owner and operator shall inform the Board as to the disposition of patient records. If the owner and operator no longer will maintain patient records upon cessation of operations, a custodian of records shall be authorized to obtain and maintain said records. The custodian of records must provide their name, physical address, telephone number and email

address to the Board and agree to abide by Section 3070.2(l) of the Business and Professions Code.

(7) An owner and operator may apply for renewal of the registration by attesting to compliance with the requirements of this article and payment of the biennial renewal fee of \$1,000.00.

(8) An owner and operator who does not apply for renewal by the expiration date as listed in subsection (3) shall be assessed a delinquency fee of \$500.00. The owner and operator shall not conduct any services as authorized by this article while in delinquent status.

(b) Application for Mobile Optometric Office Permit. An owner and operator, who has obtained approval from the Board pursuant to section (a) and wishes to operate a mobile optometric office, shall apply with the Board for a permit by submitting an "Application for Mobile Optometric Office Permit (Form MOO1 02/21), which is hereby incorporated by reference, provide evidence of compliance with the requirements of this section, and pay the non-refundable registration fee of \$100 for a mobile optometric office permit.

(1) The Board shall inform an applicant for a permit in writing within thirty (30) calendar days from the receipt of an application whether the application is complete and accepted for filing or is deficient and what further specific information is required. If the applicant does not respond within fourteen (14) calendar days to the Board's request for further information, the application will be deemed abandoned.

(2) Upon receipt of further information provided as part of subdivision (1) herein, if required, the application shall be deemed a complete application. The Board shall decide within thirty (30) days after the filing of a completed application whether the applicant meets the requirements of a permit.

(3) Upon approval of the permit, the Board shall issue an identifying number for each mobile optometric office which will be used in all reporting by the owner and operator.

(4) Upon approval, the permit shall be valid for two (2) years from the date of approval.

(5) Mobile Optometric Office approvals are not retroactive.

(6) Mobile Optometric Office permits are not transferrable.

(7) Upon cessation of operation by the mobile optometric office, the owner and operator shall notify the Board in writing within thirty (30) days of the last day of operation.

(8) An owner and operator may apply for renewal of the permit by attesting to compliance with the requirements of this article and payment of the biennial renewal fee of \$100.00.

(9) An owner and operator who does not apply for renewal of the permit by the expiration date as listed in subdivision (3) shall be assessed a delinquency fee of \$50.00. The mobile optometric office shall not conduct any services as authorized by this article while in delinquent status.

(10) A personal vehicle, belonging to an employee or volunteer with the owner and operator, shall not be used as a mobile optometric office.

(c) Any changes to the information provided in this section shall be reported to the Board in writing within fourteen (14) days.

Note: Authority cited: Sections 3025, 3041, 3070.2, Business and Professions Code. Reference: Sections 2544, 3041, 3041.3, 3070, 3070.1, 3070.2, Business and Professions Code.

§1585 Mobile Optometric Office Reporting Requirements

(a) Quarterly Reporting. An owner or operator of each mobile optometric office shall file a quarterly report with the Board using the “Owner and Operator Quarterly Report Form” (Form QTR1 (02-2021)), which is hereby incorporated by reference. This report shall be sent to the Board in comma-separated, tab delineated electronically formatted document no later than the 3rd calendar day of the reporting month or via a Board approved online system. For the purposes of this section, “quarterly” means the months of March, June, September and December of each year.

(1) For tracking purposes, each patient encounter made at a mobile optometric office shall generate a patient reference number which will be kept on patient records, quarterly reports and patient complaint forms. The reference number shall be in the following format:

“Year – Day – Month – Mobile Optometric Office Number – optometrist license number” followed by sequential numbering.

(b) Patient Complaint Form. Each patient complaint received by the owner and operator, whether in person, via telephone, or electronically, shall be documented using the “Mobile Optometric Office Patient Complaint Form” (Form COM1 (02-2021)) which is hereby incorporated by reference. A copy of each complaint shall be provided to the Board as part of the quarterly report detailed in subsection (a) and retained in the patient file.

Note: Authority cited: Sections 3025, 3041, 3070.2, Business and Professions Code. Reference: Sections 3070.2, Business and Professions Code.

§1586 Patient Notification and Records

(a) Each mobile optometric office shall display, in a conspicuous location visible to the patient, the consumer notice as required by 16 CCR sections 1566 and 1566.1.

(b) Each patient, or the patient’s caregiver or guardian, shall be issued a consumer notice. A copy of the consumer notice may be provided to each patient or the patient’s caregiver or guardian either in-person or electronically.

(1) The notice shall be in a minimum of 12-point font and must contain the following information:

(A) The name, license number, email address, telephone number, and primary business address of the optometrist providing services;

(B) The owner and operator's corporate name, business address, telephone number, website address, email address, and Board issued identifying number;

(C) At a minimum, the additional following information:

CONSUMER NOTICE

The operation of mobile optometric offices and the practice of optometry and opticianry in California are regulated by the California State Board of Optometry. The Board of Optometry receives and investigates all consumer complaints involving the practice of optometry and opticianry. Complaints or grievances involving the operation of this mobile optometric office or a California-licensed optometrist or optician should be directed in writing to:

California Department of Consumer Affairs
Board of Optometry
2540 Del Paso Road, Suite 105
Sacramento, CA 95834
Phone: 1-866-585-2666 or 916-575-7170
Email: optometry@dca.ca.gov
Website: optometry.ca.gov

PRESCRIPTIONS

Optometrists are required to provide patients upon request with a copy of their ophthalmic lens prescriptions as follows:

- Spectacle prescriptions: Release upon completion of exam.
- Contact lens prescriptions: Release upon completion of exam or upon completion of the fitting process.

COPIES OF MEDICAL RECORDS

Patients may obtain a copy of their medical records by contacting the owner and operator of this mobile optometric office as listed on this notice.

(2) Each patient, or the patient's caregiver or guardian if applicable, must sign and acknowledge that they have received the consumer notice. The signature must be accompanied by the printed patient or patient caregiver or guardian's name. The signed acknowledgement must be retained in the patient's file.

(c) Patient records shall be maintained pursuant to Business and Professions Code section 3070.2(l).

Note: Authority cited: Sections 3025, 3041, 3070.2, Business and Professions Code. Reference: Sections 3041, 3041.3, 3070, 3070.1, 3070.2, Business and Professions Code.

DRAFT



Application for Registration for Ownership and Operation of Mobile Optometric Offices

Business and Professions Code (BPC) §3070.2; Title 16, California Code of Regulations (CCR) §§1583 – 1586

Non-refundable fee: \$1,500.00 (must accompany application)

Requirements:

- Form must be filled out in full with all information requested. Attach extra sheets where required.
- All requirements set out in BPC § 3070.2 and CCR §§ 1583 – 1586 must be met. The Board may withdraw approval at any time that it determines that an owner and operator is not meeting the requirements of the law.
- Upon approval of the registration by the Board, the registration shall be valid for two (2) years from the date of approval.

| | | | |
|--|--------------|---|------------------|
| <u>A. General Information:</u> | | | |
| <u>Corporate Name of Owner and Operator</u> | | | |
| <u>Corporate Owner and Operator Physical Address</u> | | | |
| <u>City</u> | <u>State</u> | <u>Zip</u> | <u>Telephone</u> |
| <u>Corporate Website</u> | | | |
| <u>Corporate Officer Contact Name</u> | | <u>Corporate Officer Title</u> | |
| <u>Corporate Officer Direct Telephone Number</u> | | <u>Corporate Officer's Email</u> | |
| <u>Name of Optometrist in Charge Overseeing Mobile Clinic Operations</u> | | <u>Optometrist in Charge's License Number</u> | |
| <u>Optometrist in Charge's Address of Record</u> | <u>City</u> | <u>State</u> | <u>Zip</u> |
| <u>Optometrist in Charge's Email Address</u> | | <u>Direct Telephone Number</u> | |
| <u>B. Background Information to be provided:</u> | | | |
| <u>1. Please describe the services you will be rendering via the mobile optometric offices.</u> | | | |
| <u>2. Please list the cities and/or counties you will be serving.</u> | | | |
| <u>3. Please list the planned dates of operation of the mobile optometric offices.</u> | | | |
| <u>4. Please describe how follow up care for all patients seen as part of the mobile optometric office will be provided. Include a current list of optometrists who are available on a volunteer basis and accept Medi-Cal payments for follow up care as a result of a complaint. This list shall be available to any patient who requests it.</u> | | | |

5. Please list the names and license numbers for all licensed optometrists who will be providing direct patient care as part of the mobile optometric office(s). Pursuant to BPC §3070.2(m), each licensed optometrist who provides patient care in conjunction with a mobile optometric office shall list the owner and operator's address as registered with the board. If the licensee is not practicing optometry at a location other than with the owner and operator of the mobile optometric office, then the licensee shall list as their primary address of record the owner and operator of the mobile optometric office's address as registered with the Board.

6. Please list the names and license numbers for all registered Spectacle Lens Dispensers and Contact Lens Dispensers who will be providing direct patient care as part of the mobile optometric office(s).

7. Please list the names of any other individuals who will be providing direct patient care as part of the mobile optometric office(s). Pursuant to BPC §2544, these personnel shall be under the direct responsibility and supervision of the Optometrist in Charge who is physically present at the location of each Mobile Optometric Office.

8. Please list all fees and charges to the patient for the services to be provided within the Mobile Optometric Office.

9. Please include the name, physical address, telephone number and email address for a designated custodian of patient records should the owner and operator cease operations. The custodian of records must be aware and agree to observe all patient recordkeeping requirements as set out in BPC §3070.2.

10. Please include valid articles of incorporation, any brochures and advertisements made available to the public, and copies of the consumer notice to be provided to patients.

C. Please answer the following:

1. Pursuant to BPC §3070.2(c), will the medical operations of all mobile optometric offices directed by the Optometrist in Charge, including the selection and supervision of optometric staff, the scheduling of patients, the amount of time the optometrist spends with patients, the fees charged for optometric products and services, the examination procedures, the treatment provided to patients, and the follow-up care?
YES NO

2. Does the owner and operator agree to notify the Board in writing within fourteen (14) days of any change in status, personnel or other information provided as part of an application? YES NO

3. Does the owner and operator agree to maintain patient records pursuant to BPC §3070.2 (l)?
YES NO

4. Does the owner and operator agree to provide, on a quarterly basis, a report to the Board using Form QTR1 with all the information requested on the form? YES NO

5. For any patient complaints, will the owner and operator document each complaint with the reference number and with the information specified on Form COM1 and provide copies of each complaint to the Board as part of the quarterly report? YES NO

6. Will the owner and operator provide a copy of the consumer notice to each patient or patient's caregiver or guardian as specified in CCR §1585? YES NO

7. Does the owner and operator agree to register each Mobile Optometric Office with the Board using Form MOO1? YES NO

D. Certification

I hereby certify, under penalty of perjury under the laws of the State of California, that the information provided, and any accompanying documents are true and accurate and understand and agree that any misstatements of material facts may be cause for denial of the application and discipline by the Board.

| | | |
|---|--|--------------------|
| <u>Optometrist in Charge Signature</u> | <u>Optometrist in Charge Printed Name</u> | <u>Date</u> |
| <u>Corporate Officer Signature</u> | <u>Corporate Officers Printed Name</u> | <u>Date</u> |



Application for a Mobile Optometric Office Permit

Business and Professions Code (BPC) §3070.2; Title 16, California Code of Regulations (CCR) §§ 1583 – 1586

Non-Refundable Fee: \$100.00 (must accompany application)

Requirements:

- Form must be filled out in full with all information requested.
- Prior to any application for a Mobile Optometric Office Permit, the Owner and Operator must be registered with the Board.
- A separate permit is required for each Mobile Optometric Office operated by the Owner and Operator. Pursuant to BPC § 3070.2, mobile optometric office means a trailer, van, mobile equipment or other means of transportation in which the practice of optometry is performed. Any driver must have a valid driver's license.
- All requirements set out in BPC § 3070.2 and CCR §§ 1583 – 1586 must be met and approved by the Board before operation. The Board may withdraw approval at any time that it determines that a mobile optometric office does not meet the requirements of the law.
- Upon approval of the permit by the Board, the permit shall be valid for two (2) years from the date of approval.

| | | | | |
|---|---------------------|--|--|--|
| <u>Corporate Name of Owner and Operator of Mobile Optometric Office</u> | | | | |
| <u>Corporate Owner and Operator Physical Address</u> | | | | |
| <u>City</u> | <u>State</u> | <u>Zip</u> | <u>Telephone</u> | |
| <u>Email</u> | | | <u>Website</u> | |
| <u>Name of Optometrist in Charge of Mobile Optometric Office</u> | | | | <u>Optometrist in Charge's License Number</u> |
| <u>Optometrist in Charge's Address of Record</u> | | | | |
| <u>City</u> | <u>State</u> | <u>Zip</u> | <u>Direct Telephone Number</u> | |
| <u>Mobile Optometric Office Vehicle Make/Model</u> | | <u>Year</u> | <u>License Plate or Registration Number</u> | |
| <u>Description of Services to Be Rendered Within the Mobile Optometric Office</u> | | | | |
| <u>I hereby certify, under penalty of perjury under the laws of the State of California, that the information provided and any accompanying documents are true and accurate, and understands and agrees that any misstatements of material facts may be cause for denial of the application and discipline by the Board.</u> | | | | |
| <u>Optometrist in Charge Signature</u> | | <u>Optometrist in Charge Printed Name</u> | | <u>Date</u> |



Owner and Operator Quarterly Report Form

Authority: Business and Professions Code (BPC) §3070.2; Title 16, California Code of Regulations (CCR) §§ 1583 – 1586

The Quarterly Report is due by the third calendar day of each quarterly report month (March, June, September and December) and must be submitted electronically.

| <u>A. Background Information</u> | | | | |
|--|---------------------|--------------------|---|-------------------|
| <u>Corporate Name of Owner and Operator as Registered with the Board</u> | | | <u>Registration Number</u> | |
| <u>Corporate Owner and Operator Physical Address</u> | | | | |
| <u>City</u> | <u>State</u> | <u>Zip</u> | <u>Telephone</u> | |
| <u>Corporate Website</u> | | | | |
| <u>Corporate Officer Contact Name</u> | | | <u>Corporate Officer Title</u> | |
| <u>Corporate Officer Direct Telephone Number</u> | | | <u>Corporate Officer's Email</u> | |
| <u>Name of Optometrist in Charge Overseeing Mobile Clinic Operations</u> | | | <u>Optometrist in Charge's License Number</u> | |
| <u>Optometrist in Charge's Address of Record</u> | | <u>City</u> | <u>State</u> | <u>Zip</u> |
| <u>Optometrist in Charge's Email Address</u> | | | <u>Optometrist in Charge's Direct Telephone Number</u> | |
| <u>B. The Owner and Operator shall provide the following information to the Board with this report as an attachment or via a Board-approved online system:</u> | | | | |
| <ol style="list-style-type: none"> 1. <u>An updated and current list of licensed optometrists who have provided care within the mobile optometric office since the last reporting period.</u> 2. <u>An updated and current list of licensed optometrists who are available for follow-up care as a result of a complaint on a volunteer basis or who accept Medi-Cal payments.</u> | | | | |

C. For each Mobile Optometric Office Permit, the following information shall be provided in a comma-separated, tab delineated electronic document (such as Microsoft Excel in a table format) as an attachment or via a Board approved online system.

1. **Board issued Mobile Optometric Office Identification Number.**
2. **Dates and times of operation.**
3. **Name and physical address at each visit.**
4. **The total number of patients seen at each visit.**
5. **The patient's name, date of birth and patient reference number.**
6. **The care provided at each visit.**
7. **The Optometrist in Charge's name and license number at each visit.**
8. **The name and license numbers of other optometrists who provided patient care at each visit.**
9. **The names and registration numbers of opticians who provided patient care at each visit.**
10. **The names of any other individuals who provided patient care under the direct supervision of the optometrist on site.**
11. **The sponsoring organization's name, address, contact name, contact telephone number and contact's email for the mobile optometric office visit.**
12. **A catalog of complaints received as a result of each visit. Each complaint shall be documented and logged using Form COM1 with the reference number included.**
13. **The disposition of those complaints and referral information as a result of each visit.**

D. Certification

I hereby certify, under penalty of perjury under the laws of the State of California, that the information provided, and any accompanying documents are true and accurate and understand and agree that any misstatements of material facts may be cause for denial of the application and discipline by the Board.

| | | |
|---|--|--------------------|
| <u>Optometrist in Charge Signature</u> | <u>Optometrist in Charge Printed Name</u> | <u>Date</u> |
| <u>Corporate Officer Signature</u> | <u>Corporate Officers Printed Name</u> | <u>Date</u> |



Mobile Optometric Office Patient Complaint Form

Authority: Business and Professions Code (BPC) §3070.2; Title 16, California Code of Regulations (CCR) §§ 1583 – 1586

Complaint form instructions:

1. Each complaint received by the owner and operator as a result of a mobile optometric office visit must be documented in full on this form. The reference number must be included.
2. A copy of this form must be included and maintained within the patient record. Attach additional sheets if necessary.
3. All complaints must be submitted with the Quarterly Report, which is due by the third calendar day of each quarterly report month (March, June, September and December) and must be submitted electronically.

| <u>A. Complaint Background Information</u> | | | |
|--|---------------------|--|---|
| <u>Patient Reference Number</u> | | <u>Date Complaint Received</u> | |
| <u>Complainant's Name</u> | | | <u>Complainant's Date of Birth</u> |
| <u>Complainant's Caregiver or Guardian Name, if Applicable</u> | | | |
| <u>Complainant's Address</u> | | | |
| <u>City</u> | <u>State</u> | <u>Zip Code</u> | <u>Telephone Number</u> |
| <u>Complainant's Email Address</u> | | | |
| <u>Sponsoring Organization Name</u> | | <u>Sponsoring Organization Contact Person</u> | |
| <u>Sponsoring Organization Telephone Number</u> | | <u>Sponsoring Organization Email Address</u> | |
| <u>Name of Person Providing Care as Reported by Complainant</u> | | | <u>License or Registration Number, if applicable</u> |
| <u>Date Complainant Received Care at Mobile Optometric Office</u> | | | |

| <u>B. Complaint Detail</u> | | |
|---|--------------------------------|-----------------------------|
| <u>Description of Complaint</u> | | |
| <u>Complainant's Requested Resolution</u> | | |
| <u>Resolution Date</u> | | |
| <u>Resolution Description</u> | | |
| <u>Name of Operator who took the complaint</u> | <u>Telephone Number</u> | <u>Email Address</u> |