



ISSUE MEMORANDUM

DATE	February 18, 2022
TO	Members, Legislation and Regulation Committee
FROM	Marc Johnson, Policy Analyst
SUBJECT	Agenda Item #5 – Update and Discussion on Rulemaking Packages

Set out below is an update on the Board's previously approved regulatory packages. They are listed in order of priority recommended by the LRC at the October 22, 2021 meeting and sustained by the Board. For background, a link to previous meetings is included below. No action is needed as this is an informational update.

[Assembly Bill 1534 \(Committee on Business and Professions, Chapter 630, Statutes of 2021\)](#) made multiple changes to the optometry practice act and created a more defined optician practice act. Staff has been meeting internally on implementation. The bill may require changes to existing regulation packages (as noted below) or a new standalone regulation package which will be brought to the LRC a future meeting.

Additionally, [AB 107 \(Salas, Chapter 693, Statutes of 2021\)](#), relating to licensure: veterans and military spouses, was signed into law on October 8, 2021. This bill requires that all Department of Consumer Affairs (DCA) licensing boards issue temporary licenses to the spouses of active-duty members of the United States (U.S.) Armed Forces, provided they meet Board requirements. DCA is currently evaluating the bill for impact and will likely introduce a DCA-wide regulatory package for implementation later this year. If so, the package will be brought to the LRC and the Board for review at a future meeting.

Attachment A is the 2022 Office of Administrative Law (OAL) rulemaking calendar submitted by the Board in January 2022. It is an informational document used by OAL to track all proposed or approved regulations for each board or bureau and sets out proposed timelines for action of each regulation for the year.

Previously Approved Regulatory Packages:

1. Mobile Optometric Office Regulations (Adopt §§1583 – 1586) [Approved by the Board at the May 21, 2021 public meeting.](#)

Subject: This proposal will implement AB 896 (Low, Chapter 121, Statutes of 2020), which would allow nonprofit charitable organizations to provide mobile optometry services to patients and receive reimbursement by Medi-Cal. It requires the Board to develop a registry for mobile optometry offices and a consumer notice to be provided to patients. Assembly Bill 1534 (Assembly Committee on Business and Professions) –

approved by the Governor on October 7, 2021 and effective January 1, 2022, extends the regulatory implementation date to January 1, 2023 and adds authority for the Board to require registration of individual mobile optometric units by each non-profit.

Comments: Staff is currently working on updates to the text and forms as a result of AB 1534, which will be presented at the March 11, 2022 Board meeting in order to meet the January 1, 2023 statutory deadline. It is expected the existing AB 896 package will be combined into a new “omnibus” mobile optometric office package with both the AB 896 and AB 1534 requirements. Additionally, the Board’s new Mobile Optometric Office Coordinator, Genevieve Sanati, will be leading the effort to establish this program.

2. Optometry Continuing Education Regulations (Amend §1536)

Approved by the Board at the August 14, 2020 public meeting, and minor updates to the text were made at the August 31, 2021 public meeting. [Additional changes were made at the November 21, 2021 public meeting.](#)

Subject: This proposal would make a series of changes to §1536, including allowing all 50 continuing education units to be taken online provided the courses meet certain conditions, an increase in self-study hours to 25, a better definition of self-study hours and additional requirements for CE providers. Changes were also made to forms incorporated by reference into the section.

Comment: The initial rulemaking package, containing changes made at the November 21, 2021 meeting, is complete and is with DCA Legal for review and approval. Staff anticipates the rulemaking package being sent to OAL for a 45-day public comment period in March.

3. Implementation of AB 458 (Adopt §1507.5 and Amend §1524)

[Approved by the Board at the May 21, 2021 public meeting.](#)

Subject: This proposal will implement AB 458 (Nazarian, Chapter 425, Statutes of 2019), which allows an optometrist to engage in the practice of optometry at a home residence, provided they meet specific requirements and submit an application to the Board and pay specified fees. The optometrist would also be required to provide a consumer notice to a patient.

Comment: The rulemaking package is currently under staff preparation for submission to DCA and Agency for pre-file approval with OAL.

5. Optometry Disciplinary Guidelines (Amend §1575)

The full Board approved the regulatory text and Guidelines incorporated by reference [at the October 25, 2019, public meeting.](#)

Subject: 2019 update of existing Optometry Board Disciplinary Guidelines. The changes include updates to enforcement processes; terminology used, and implementation of changes made by the Substance Abuse Coordination Committee in Fall 2019.

Comment: Some work on the rulemaking package has been started. AB 1534 will likely require minor changes to the DG handbook.

6. Optician Program Omnibus Regulatory Changes (Amend §§ 1399.200 – 1399.285)

Approved by the Board at the [August 14, 2020, public meeting](#).

Subject: This proposal makes minor changes to the existing optician program regulations, limited to placing current initial registration and renewal forms (used with the BreEZe system), aligning current fees with the statute and making other non-substantive changes. These changes would not affect any existing operations or modify any current processes.

Comment: Some work on the rulemaking package has been started. Assembly Bill 1534 will necessitate changes to the optician program regulations.

7. Dispensing Optician Disciplinary Guidelines (Amend §1399.273)

Approved by the Board at the [August 14, 2020, public meeting](#).

Subject: The Optician Guidelines are used to impose discipline including conditions of probation for licensees that address the violations charged and are modeled after the Optometry Disciplinary Guidelines but are modified to meet the needs of the Optician Program.

Comment: The rulemaking package has not been started. Assembly Bill 1534 will likely necessitate changes to the proposed optician disciplinary guidelines.

8. Requirements for Glaucoma Certification (Amend §1571)

Approved by the Board at the [February 26, 2021, public meeting](#).

Subject: CCR Section 1571 sets out the requirements for Glaucoma certification. Due to COVID-19, optometry schools have been offering the Grand Rounds certification program, authorized by subsection (B), online as a live course. This proposal would remove the in-person patient evaluation requirement from CCR Section 1571 (B).

Comment: The rulemaking package has not been started.

**DEPARTMENT OF CONSUMER AFFAIRS
California State Board of Optometry
2022 RULEMAKING CALENDAR**

**SCHEDULE A: PROPOSED REGULATIONS IMPLEMENTING STATUTES ENACTED
DURING THE YEAR 2021**

Subject: Mobile Optometric Office Owner and Permit Program (Assembly Bill 1534, Committee on Business and Professions, Chapter 630, Statutes of 2021; Assembly Bill 896, Low, Chapter 121, Statutes of 2020)

California Code of Regulations Title and Sections Affected: TBD (Title 16)

Statute(s) Being Implemented: Business and Professions Code section 3070.2

Responsible Agency Unit: California State Board of Optometry

Contact Person and Phone Number: Marc Johnson – 916-575-7182

Projected Notice Publication Date: Summer 2022

Projected Public Hearing Date: TBD

Projected Adoption by Your Agency Date: March 2022

Projected To OAL for Review Date: Fall 2022

Next

Subject: Optician Program Regulations (Assembly Bill 1534, Committee on Business and Professions, Chapter 630, Statutes of 2021).

California Code of Regulations Title and Sections Affected: TBD (Title 16)

Statute(s) Being Implemented: Business and Professions Code sections 2541.2, 2544, 2545, 2550, 2552.2, 2553.7, 2555.5, 2588.1, 2558.2, 2559.2, 2564.5, 2564.71, 2564.74, 2564.76, 2564.80, 2564.91, 2564.94, 3112

Responsible Agency Unit: California State Board of Optometry

Contact Person and Phone Number: Marc Johnson – 916-575-7182

Projected Notice Publication Date: Winter 2022

Projected Public Hearing Date: TBD

Projected Adoption by Your Agency Date: Fall 2022

Projected To OAL for Review Date: Spring 2023

Next

Subject: Veteran and Military Spouse Licensure (Assembly Bill 107, Salas, Chapter 693, Statutes of 2021)

California Code of Regulations Title and Sections Affected: TBD (Title 16)

Statute(s) Being Implemented: Business and Professions Code section 115.6

Responsible Agency Unit: California State Board of Optometry

Contact Person and Phone Number: Marc Johnson – 916-575-7182

Projected Notice Publication Date: Winter 2022

Projected Public Hearing Date: TBD

Projected Adoption by Your Agency Date: Fall 2022

Projected To OAL for Review Date: Spring 2023

SCHEDULE B: PROPOSED REGULATIONS IMPLEMENTING STATUTES ENACTED PRIOR TO THE YEAR 2021

Subject: Continuing Education Update

California Code of Regulations Title and Sections Affected: 16 CCR 1536

Statute(s) Being Implemented: Business and Professions Code section 3059

Responsible Agency Unit: California State Board of Optometry

Contact Person and Phone Number: Marc Johnson – 916-575-7182

Projected Notice Publication Date: May 2022

Projected Public Hearing Date: TBD

Projected Adoption by Your Agency Date: November 19, 2021

Projected To OAL for Review Date: September 2022

NEXT

Subject: Optometry Renewal Fees

California Code of Regulations Title and Sections Affected: 16 CCR 1524

Statute(s) Being Implemented: Business and Professions Code section 3152

Responsible Agency Unit: California State Board of Optometry

Contact Person and Phone Number: Marc Johnson – 916-575-7182

Projected Notice Publication Date: Fall 2022

Projected Public Hearing Date: TBD

Projected Adoption by Your Agency Date: June 2022

Projected To OAL for Review Date: Winter 2022

NEXT

Subject: Home Residence Permit (AB 458, Nazarian, Chapter 425, Statutes of 2019)

California Code of Regulations Title and Sections Affected: 16 CCR 1507.5 and 1524

Statute(s) Being Implemented: Business and Professions Code sections 3070.1 and 3152

Responsible Agency Unit: California State Board of Optometry

Contact Person and Phone Number: Marc Johnson – 916-575-7182

Projected Notice Publication Date: September 2022

Projected Public Hearing Date: TBD

Projected Adoption by Your Agency Date: May 21, 2021

Projected To OAL for Review Date: November 2022

NEXT

Subject: Update of Dispensing Optician Forms and Fees

California Code of Regulations Title and Sections Affected: 16 CCR 1399.200, 1399.220, 1399.222, 1399.260, 1399.261, 1399.262, and 1399.263,

Statute(s) Being Implemented: Business and Professions Code sections 2546.9, 2550, 2551, 2554, 2558, 2566, and 2566.1

Responsible Agency Unit: California State Board of Optometry

Contact Person and Phone Number: Marc Johnson – 916-575-7182

Projected Notice Publication Date: December 2022

Projected Public Hearing Date: TBD

Projected Adoption by Your Agency Date: August 14, 2020

Projected To OAL for Review Date: Spring 2023

NEXT

Subject: Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

California Code of Regulations Title and Sections Affected: 16 CCR 1575

Statute(s) Being Implemented: Business and Professions Code sections 315, 315.2, 315.4, 480, 3091, and 3110; Government Code sections 11400.20 and 11425.50(e)

Responsible Agency Unit: California State Board of Optometry

Contact Person and Phone Number: Marc Johnson – 916-575-7182

Projected Notice Publication Date: November 2022

Projected Public Hearing Date: TBD

Projected Adoption by Your Agency Date: October 25, 2019

Projected To OAL for Review Date: Summer 2023

NEXT

Subject: Disciplinary Guidelines (Optician)

California Code of Regulations Title and Sections Affected: 16 CCR 1399.273

Statute(s) Being Implemented: Business and Professions Code sections 315, 315.2, 315.4, 480, and 2555; Government Code sections 11400.20 and 11425.50

Responsible Agency Unit: California State Board of Optometry

Contact Person and Phone Number: Marc Johnson – 916-575-7182

Projected Notice Publication Date: Spring 2023

Projected Public Hearing Date: TBD

Projected Adoption by Your Agency Date: August 14, 2020

Projected To OAL for Review Date: Summer 2023

NEXT

Subject: Requirements for Glaucoma Certification

California Code of Regulations Title and Sections Affected: 16 CCR 1571

Statute(s) Being Implemented: Business and Professions Code sections 3041, 3041.3

Responsible Agency Unit: California State Board of Optometry

Contact Person and Phone Number: Marc Johnson – 916-575-7182

Projected Notice Publication Date: Spring 2023

Projected Public Hearing Date: TBD

Projected Adoption by Your Agency Date: February 26, 2021

Projected To OAL for Review Date: Summer 2023

**Report on the Status of all Uncompleted Rulemaking Described on Previous
Calendars:**

Scope of Practice (AB 443, Salas, Chapter 549, Statutes of 2017)

Amend 16 CCR 1524 and 1572

Board will not be proceeding with this proposal due to AB 691 being signed into law.

Mobile Optometric Offices

Amend California Code of Regulations Title 16

Board will not be proceeding with this proposal due to AB 1534 being signed into law.