



ISSUE MEMORANDUM

DATE	February 1, 2019
TO	California State Board of Optometry (CSBO) Members
FROM	Shara Murphy, Executive Officer prepared by Marc Johnson, Policy Analyst
SUBJECT	Agenda Item #12 – Update, Discussion and Possible Action Regarding Potential Regulations Implementing Assembly Bill 443 (Salas, Chap. 549, Statutes of 2017

On October 7, 2017 the Governor signed into law AB 443, relating to Optometry scope of practice, which amended (among other sections) Business and Professions Code (BPC) §3041(g). This bill authorized an optometrist who is certified to use therapeutic pharmaceutical agents to administer immunizations if the optometrist meets certain requirements, including that the optometrist is certified in basic life support. Additionally, this bill required an applicant for a certificate to administer immunizations to pay a fee not to exceed \$50 (BPC §3152(t)). Although the implementation of this bill was agendized for the March 23, 2018 Legislative and Regulation Committee, the issue has not taken up or acted upon since.

Current text of BPC §3041(g):

“(1) An optometrist certified pursuant to Section 3041.3 shall be certified for the administration of immunizations after the optometrist meets all of the following requirements:

- (A) Completes an immunization training program endorsed by the federal Centers for Disease Control and Prevention (CDC) or the Accreditation Council for Pharmacy Education that, at a minimum, includes hands-on injection technique, clinical evaluation of indications and contraindications of vaccines, and the recognition and treatment of emergency reactions to vaccines, and maintains that training.*
- (B) Is certified in basic life support.*
- (C) Complies with all state and federal recordkeeping and reporting requirements, including providing documentation to the patient’s primary care provided and entering information in the appropriate immunization registry designated by the immunization branch of the State Department of Public Health.*
- (D) Applies for an immunization certificate on a board-approved form.*

(2) For the purposes of this section, “immunization” means the administration of immunizations for influenza, herpes zoster virus, and pneumococcus in compliance with individual Advisory Committee on Immunization Practices (ACIP) vaccine recommendations published by the CDC for persons 18 years of age or older.”

In 2017, the issue was raised over the ambiguous meaning of the words “endorsed by the Centers for Disease Control and Prevention” with training for a “hands-on technique” as previously listed in statute. At the time, Legal Counsel performed research on the issue and determined the CDC solely does not appear to endorse any such program with a hands-on technique consistent with the requirements set out in statute. Further, the California Optometric Association indicated they would pursue legislation which would allow for an accredited school or college of optometry to offer such courses, although it is not clear if such legislation was ever



proposed or enacted. However, BPC §3041 was amended in 2018 to include the words “or the Accreditation Council for Pharmacy Education” by the Legislature, which appears to have cleared up that ambiguity. It remains unclear if Optometrists have implied authority via the statute to order the shots, as well as administer them after certification; Legal Counsel is currently researching this issue.

For implementation, staff proposes the following text, along with a form (CSBO IMM rev. 02/19) incorporated by reference, into California Code of Regulations (CCR) §1572 and §1524:

(1) Add Section 1572 of Division 15 of Title 16 of the California Code of Regulations to read as follows:

16 CCR § 1572. Immunization Certificate Applications

- (a) Application for an Immunization Certification shall be made on a form prescribed by the Board (Form CSBO IMM, Rev. 02/19), which is hereby incorporated by reference, and shall be accompanied by the following:
 - 1. The application fee fixed by the Board pursuant to Section 1524 in this Article.
 - 2. Immunization Training Program Certificate from a program endorsed by the federal Centers for Disease Control and Prevention or the Accreditation Council for Pharmacy Education.
 - 3. Basic Life Support Certificate.

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

(2) Amend Section 1524 of Division 15 of Title 16 of the California Code of Regulations to read as follows:

16 CCR § 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
(q) Biennial renewal for a retired license with a volunteer designation	\$50
(r) Application fee for an immunization certification	\$50

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