

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. CALIFORNIA STATE BOARD OF OPTOMETRY

PROPOSED REGULATORY LANGUAGE

Mobile Optometric Office Owner and Permit Program

Legend:

Added text is indicated with an underline.

Deleted text is indicated by ~~strikeout~~.

Amend sections 1505 and 1524 and adopt sections 1583 to 1587 in Division 15 of Title 16 of the California Code of Regulations to read as follows:

Article 2. Location of Practice

§ 1505. Notification of Intention to Engage in Practice

(a) The notification of intention to engage in the practice of optometry which is required by Section 3070 of the code shall be addressed to the Board at its office in Sacramento.

(b) Such notification of intention to engage in the practice of optometry includes notifying the Board of intention to accept employment to practice optometry, the name or names of the optometrist or optometrists, or those who by law may employ an optometrist and the address or addresses of the office or offices at which the licensee will be employed. If the licensee will engage in the practice of optometry exclusively at a mobile optometric office, then the licensee shall comply with the notice requirements in subdivision (n) of section 3070.2 of the code.

(c) Such notification of intention to engage in the practice of optometry includes notifying the Board prior to the establishment of any office or offices to practice optometry of the intention to establish such office or offices and the location or locations to be occupied.

Note: Authority cited: Section 3025, Business and Professions Code. Reference: Sections 3070, 3070.2 and 3077, Business and Professions Code.

Article 5. Application for Licensure Examination

§ 1524. Fees

The following fees are established:

(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
<u>(r) Application fee for a certificate to operate as an owner and operator of a mobile optometric office</u>	<u>\$2,632</u>
<u>(s) Biennial renewal fee for a certificate to operate as an owner and operator of a mobile optometric office</u>	<u>\$2,632</u>
<u>(t) Delinquency fee for failure to renew a certificate to operate as an owner and operator of a mobile optometric office</u>	<u>\$150</u>
<u>(u) Application fee for a mobile optometric office permit</u>	<u>\$472</u>
<u>(v) Biennial renewal fee for a mobile optometric office permit</u>	<u>\$472</u>
<u>(w) Delinquency fee for failure to renew a mobile optometric office permit</u>	<u>\$150</u>

Note: Authority cited: Sections 3025, 3044, 3075, 3152 and 3152.5, Business and Professions Code. Reference: Sections 163.5, 3055, 3070.2, 3075, 3078, 3151, 3151.1, 3152 and 3152.5, Business and Professions Code.

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. Registration Requirements for Ownership and Operation of Mobile Optometric Offices; Notice of Changes; Abandonment; Grounds for Denial

(a) An owner and operator of a mobile optometric office who wishes to offer optometric services at a mobile optometric office in this state shall register with the Board prior to offering services to the public by submitting a completed application as prescribed by this section. An owner and operator shall utilize an online portal designated by the Board to submit the application as provided in subdivision (b) for registration for ownership and operation of mobile optometric offices and upon approval will receive a certificate to operate as an owner and operator of a mobile optometric office.

(b) The completed application shall contain the information required in this subdivision and shall be electronically submitted through a web link to the Department of Consumer Affairs' online licensing system entitled "BreEZe" located on the Board's website at: www.optometry.ca.gov. The applicant shall complete the application according to the following requirements:

(1) The owner and operator shall first register for a user account by creating a username and password.

(2) The owner and operator shall provide the following information through the link that is referenced in subdivision (b) of this section:

(A) Name of the owner and operator's organization (legal name);

(B) Owner and operator's primary physical business address, city, state, zip code, and telephone number;

(C) Owner and operator address of record, city, state, zip code, telephone number, and website address, if applicable;

(D) Name, title, direct telephone number, and email address of the authorized contact person;

(E) A copy of the articles of incorporation or acknowledgment of intent to operate and employer identification number demonstrating the owner and operator is a nonprofit or charitable organization that is exempt from taxation pursuant to Section 501(c)(3) or Section 501(c)(4) of the Internal Revenue Code. These documents shall be scanned and electronically uploaded to the Board in a PDF format that is attached to the application through a web link to BreEZe on the Board's website at:

www.optometry.ca.gov;

(F) A list of all officers or officials responsible for the operations of the organization (non-profit or charitable organization) and personally identifying information including:

(i) Names and titles of the officers or officials;

(ii) Address, city, state, and zip code of the officers or officials;
and

(iii) Social security numbers (SSN) or individual taxpayer identification numbers (ITN), business telephone numbers, alternate telephone numbers (if any), and email addresses of each of the officers or officials.

(G) Description of the services that will be rendered within the mobile optometric offices;

(H) Description of how follow-up care for all patients served by the mobile optometric office(s) will be provided.

(I) Electronic Signature: When a signature is required by the particular instructions of any filing to be made through the online portal, including any attestation under penalty of perjury, an authorized representative of the mobile optometric office shall affix their electronic signature to the filing by typing their name in the appropriate field and submitting the filing via the Board's online portal. Submission of a filing in this manner shall constitute evidence of legal signature by any individual whose name is typed on the filing.

(3) The application for registration for ownership and operation of mobile optometric offices shall be accompanied by the following:

(A) The non-refundable fee fixed by the Board pursuant to Section 1524 shall be electronically submitted at the time of registration through a link to BreZE on the Board's website at: www.optometry.ca.gov;

(B) Full and complete fingerprints of the applicant's responsible officers or officials to the Board for use in conducting criminal background checks through the California Department of Justice and the Federal Bureau of Investigation, in the manner specified, and pursuant to the conditions and requirements set forth, in Section 1585. For the purposes of this section, "responsible officers or officials" means the individuals listed by the applicant as the principal officers or officials responsible for the operations of the applicant's organization.

(c) The owner and operator of a mobile optometric office shall report to the Board any change in information provided to the Board within fourteen (14) days of the change including, change of primary business address, responsible officers or officials, records location, and the name and license number of the optometrist responsible for directing medical operations.

(d) An applicant who fails to complete application requirements to register with the Board within one year after being notified by the Board of deficiencies in its application, shall be deemed to have abandoned the application and shall be required to file a new application and meet all registration requirements in effect at the time of reapplication.

(e) An application may be denied if an applicant fails to comply with any of the requirements of this section or Section 3070.2 of the code, or upon the grounds specified in Section 480 of the code.

Note: Authority cited: Sections 3025, 3041, 3070.2, Business and Professions Code.
Reference: Sections 27, 30, 31, 142, 144, 163.5, 480, 494.5, 2544, 3041, 3041.3, 3055, 3070, 3070.1, 3070.2, Business and Professions Code; Sections 1633.2, 1633.7, and 1633.9, Civil Code; Section 16.5, Government Code.

§ 1584. Certificate to Operate a Mobile Optometric Office; Renewal Requirements; Grounds for Discipline; Reinstatement of Expired Certificate

(a) A certificate to operate a mobile optometric office (“certificate to operate”) issued by the Board under this Article shall expire two years after the date of issuance unless renewed by the Board prior to its expiration by meeting the requirements in this section.

(b) To renew a certificate to operate, an owner and operator of a mobile optometric office shall pay the renewal fee set forth in section 1524 and certify in writing to the Board that it maintains compliance with the following requirements:

(1) Optometric services are provided to patients regardless of the patient’s ability to pay;

(2) The owner and operator does not accept payment for services other than those provided to Medi-Cal beneficiaries;

(3) The medical operations of the mobile optometric office are directed by a licensed optometrist and in every phase is 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 follow-up care;

(4) The owner and operator confirms they have read or received notice of the limitations on operating more than twelve (12) mobile optometric offices within the first renewal period contained in section 3070.2(c)(3) of the code;

(5) The owner and operator of the mobile optometric office provides each patient and, if applicable, the patient’s caregiver or guardian, a consumer notice prescribed by the Board in section 1587 and maintains it in the patient’s medical record;

(6) Upon request by the patient’s caregiver or guardian, the mobile optometric office provides a copy of the prescription made for the patient;

(7) Any person who is employed by the owner and operator of the mobile optometric office to drive or transport the vehicle possesses a valid driver's license;

(8) The owner and operator of a mobile optometric office maintains records in the manner prescribed by Section 3070.2 of the code and makes them available to the Board upon request for inspection during normal business hours; and

(9) A licensed optometrist who is certified to use therapeutic pharmaceutical agents pursuant to Section 3041.3 of the code performs all examinations at the mobile optometric office.

(c) Failure to comply with the requirements of this section renders any application for renewal of a certificate to operate incomplete and the certificate will not be renewed until the owner and operator of a mobile optometric office demonstrates compliance with all requirements.

(d) In the event an owner and operator of a mobile optometric office does not renew the certificate to operate as provided in this section, the certificate to operate expires and the owner and operator shall be considered unlicensed. An expired certificate to operate may be reinstated and renewed at any time within three years after its expiration if the owner and operator of the mobile optometric office meets the renewal requirements of this section and pays all accrued and unpaid renewal and delinquency fees in section 1524.

(e) In order to remain registered with the Board, the owner and operator of a mobile optometric office shall respond to any inquiries by the Board, submit any documents requested by the Board, provide any information requested by the Board, and cooperate in any investigation conducted by the Board regarding compliance with the Board's requirements, including section 3070.2 of the code. A response to any Board inquiry or request shall be provided within fourteen (14) days of the Board's written request.

(f) Failure to comply with any of the requirements of this Article or Section 3070.2 of the code, or furnishing false, inaccurate, incomplete or misleading information to the Board is considered unprofessional conduct and grounds for disciplinary action against the certificate to operate by the Board. The Board may also take disciplinary action against the owner and operator's certificate to operate on the grounds set forth in Section 3110 of the code for unprofessional conduct committed by the optometrist directing the medical operations of the owner and operator's mobile optometric office(s). Disciplinary actions shall be conducted in accordance with Section 3092 of the code. For purposes of this section, a "disciplinary action" includes revocation, suspension, probation or public reproof.

Note: Authority cited: Sections 3025, 3041, 3070.2, 3092, 3110, Business and Professions Code. Reference: Sections 142, 144, 163.5, 480, 495, 2544, 3041, 3041.3, 3055, 3070, 3070.1, 3070.2, 3092, 3110, Business and Professions Code.

§ 1584.5. Mobile Optometric Office Permits

(a) An owner and operator who has been issued a certificate to operate by the Board pursuant to section 1584 (“certificate to operate”) and wishes to obtain a permit for a mobile optometric office shall do the following before beginning operation of each mobile optometric office:

- (1) Utilize an online portal designated by the Board to submit a completed mobile optometric office permit application as provided in subdivision (b) in compliance with this section;
- (2) Meet the requirements for providing optometric services at each office as provided in this section and section 3070.2 of the code; and
- (3) Receive written approval from the Board, including issuance of a permit with a unique identifying number as provided in subdivision (c).

(b) The application for mobile optometric office permit shall be completed according to the requirements of this subdivision and shall be electronically submitted through a web link to the Department of Consumer Affairs’ online licensing system entitled “BreEZe” located on the Board’s website at: www.optometry.ca.gov. For the application to be deemed complete, the following requirements shall be met:

- (1) The owner and operator or responsible representative submitting their application for a mobile optometric office permit shall submit their username and password they created to access BreEZe, as referenced in section 1584.5(b), and provide the information required by this section.
- (2) The owner and operator shall provide the following information through BreEZe:
 - (A) Owner and operator’s legal name and certificate to operate number;
 - (B) Submit a non-refundable registration fee as set forth in section 1524 for each mobile optometric office;
 - (C) Identifying information of the licensed optometrist providing services at this mobile optometric office including:

- (i) Name and optometrist license number;
- (ii) Address of record including city, state, and zip code;
- (iii) If applicable, list the statement of licensure number issued by the Board as required by section 1506 for each owner of an optometry practice or employees practicing optometry in more than one office;
- (iv) Address of record including city, state, and zip code; and,
- (v) Direct telephone number.

(D) Mobile optometric office vehicle make, model, and year;

(E) License plate or registration number of the mobile optometric office vehicle;

(F) Information specific to the particular mobile optometric office for which a permit is sought, including:

- (i) Description of the services to be rendered in the mobile optometric office;
- (ii) Names and license numbers for all optometrists;
- (iii) Names and registration numbers for all opticians who will be providing patient care;
- (iv) Names of any other persons who will be providing patient care as described in Section 2544 of the code;
- (v) Intended dates of operation;
- (vi) Cities and counties served by the mobile optometric office; and
- (vii) Whether the mobile optometric office has the following:
 - a. An access ramp or lift;
 - b. An accessible handwashing facility on the premises. For purposes of this section, “accessible handwashing facilities” means a clean and sanitary sink with clean running water, disinfectant soap, and adequate drying devices such as a towel or electric hand dryer, which is physically separate from a lavatory or bathroom and is accessible to all relevant persons.
 - c. A means of sanitation for optometric equipment.

(G) In addition to the requirements of Section 3070.2 of the code, a mobile optometric office shall also meet the sanitary requirements of section 1520.

(H) Electronic Signature: When a signature is required by the particular instructions of any filing to be made through the online portal, including

any attestation under penalty of perjury, an authorized, representative of the mobile optometric office shall affix their electronic signature to the filing by typing their name in the appropriate field and submitting the filing via the Board's online portal. Submission of a filing in this manner shall constitute evidence of legal signature by any individual whose name is typed on the filing.

(c) A separate permit is required for each mobile optometric office operated by each owner and operator with a certificate to operate and no more than twelve permits shall be issued to any owner and operator until after the owner and operator's first renewal period of two years is complete.

(d) Upon approval by the Board, the Board will issue a unique identifying number for each permit. A registrant shall include this number in all correspondence, quarterly reports, or any other communication with the Board. In addition, the unique identifying number for each permit shall be included in all forms of advertisement, solicitation, or other presentments made to the public in connection with the rendition of optometric services at each mobile optometric office, including any advertisement, card, letterhead, telephone listing, Internet Web site, written solicitation or communications to a prospective patient or patients, or contract proposal.

(e) Each mobile optometric office permit shall be effective until the expiration date of the owner and operator's certificate to operate.

(f) To renew a mobile optometric office permit, an owner and operator shall pay the renewal fee for each mobile optometric office in section 1524 and attest in writing to the Board to compliance with the requirements as set forth in section 3070.2 of the code prior to the expiration of the permit. Renewal shall run concurrently with the owner and operator's certificate to operate and, upon expiration, may be reinstated in accordance with the provisions in section 1584.

Note: Authority cited: Sections 137, 3025, 3041, 3070.2, Business and Professions Code. Reference: Sections 27, 30, 31, 136, 137 and 3070.2, Business and Professions Code; Sections 1633.2, 1633.7, and 1633.9, Civil Code; Section 16.5, Government Code.

§ 1585. Fingerprints and Background Checks for Applicants to Register as an Owner and Operator of Mobile Optometric Office.

(a) Subject to subdivision (b) of this section, all applicants for registration with the Board as an owner and operator of a mobile optometric office must submit fingerprints through

the California Department of Justice's ("Department of Justice") electronic fingerprint submission Live Scan Service ("Live Scan").

(b) Applicants must complete the Department of Justice Form "Request for Live Scan Service" (BCIA 8016 (Rev. 04/2020), for a state criminal history record in accordance with the provisions of Section 11105 et seq. of the Penal Code, and submit fingerprinting through Live Scan for its responsible officers or officials. For the purposes of this section, "responsible officers or officials" means the individuals listed in response to subdivision (b)(2)(H) in section 1583 as the principal officers or officials responsible for the operations of the applicant's organization.

(c) The applicant's responsible officers or officials must take the form to a Live Scan location to have their fingerprints taken by the operator. The applicant, through its officers, will be required to pay all fingerprint processing fees payable to the Live Scan operator, including the Live Scan operator's "rolling fee," if any, and fees charged by the California Department of Justice, and the Federal Bureau of Investigation. For current information about fingerprint background checks, and Live Scan locations, individuals may visit the Attorney General's website at: <https://oag.ca.gov/fingerprints>.

(d) Individuals residing outside of California that cannot be fingerprinted electronically in California must have their fingerprints taken at a law enforcement agency in their state of residence, using fingerprint cards. These individuals should complete two fingerprint cards. The applicant should retain the second card, to be used if the first card is determined to be unreadable and rejected by the Department of Justice. Applicants must mail one fingerprint card, together with fees in the amount of \$49 (either personal check drawn on a U.S. bank, money order or certified check), payable to the "California Department of Justice," to:

California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834

The applicant's responsible officers or officials will be notified if the first card is rejected. If rejected, the applicant's responsible officers or officials must follow the instructions on the rejection letter and submit the second fingerprint card.

(e) No certificate to operate will be issued until the Board receives a response from the Department of Justice for all persons required to submit fingerprint information under section 144 of the code and this Section, and the Board determines that the applicant with whom the persons fingerprinted are associated merits approval.

Note: Authority cited: Sections 3025, 3070.2, Business and Professions Code.
Reference: Sections 144, 3070.2, Business and Professions Code; Section 11105, Penal Code.

§ 1586. Owner/ Operator Quarterly Reporting Requirements

(a) An owner and operator of each mobile optometric office shall utilize an online portal designated by the Board as specified in subdivision (b) to submit electronically a completed quarterly report with the Board containing all of the information and in accordance with the requirements set forth by this section. After the owner and operator has been registered with the Board, the information shall be submitted to the Board no later than the third business day of the following months and covering each quarter of operations as a registrant: March, June, September and December. Hardcopy documents will not be accepted.

(b) The information required by this section shall constitute the requirements for submission of a quarterly report to the Board in accordance with Section 3070.2 of the code. An owner and operator's quarterly report shall be electronically submitted through a web link to the Department of Consumer Affairs' online licensing system entitled "BreEZe" located on the Board's website at: www.optometry.ca.gov and shall include all of the following:

(1) The owner and operator or authorized representative shall submit to the Board their username and password to access BreEZe and provide the information required by this section.

(2) The owner and operator shall provide the following information through BreEZe:

(A) Name and address of the owner and operator of the mobile optometric office;

(B) Owner and operator certificate to operate number;

(C) Name, mailing address, telephone number, and email address, if available, of the authorized representative;

(D) Total number of complaints received in the quarter being reported; and

(E) A list of all visits made by each mobile optometric office including:

(i) Mobile optometric office permit number;

(ii) Dates of operation of the mobile optometric office;

(iii) Physical street address where services were provided;

(iv) A description of the care provided;

(v) Name and registration number of optician(s) who provided care;

(vi) Name and license numbers of optometrist(s) who provided care;

(vii) A summary of any complaints received by each mobile optometric office including;

a. Mobile optometric office permit number;

b. Complaint patient name, telephone number, and email address (if available);

c. Service(s) provided at the mobile optometric office and date they were provided;

d. Name and address for the organization being serviced at the mobile optometric office;

e. Contact individual for the organization being serviced by the mobile optometric office;

f. Disposition of the complaints;

g. Referral information of follow-up care provided to the patient (i.e., name of the follow-up provider), if applicable;

h. Updated and current list of licensed optometrists, including their license numbers and the organization for which they provide service, who are available for follow-up care as a result of a complaint on a volunteer basis or who accept Medi-Cal payments.

(F) Electronic Signature: When a signature is required by the particular instructions of any filing to be made through the online portal, including any attestation under penalty of perjury, an authorized representative of the mobile optometric office shall affix their electronic signature to the filing by typing their name in the appropriate field and submitting the filing via the Board's online portal. Submission of a filing in this manner shall constitute evidence of legal signature by any individual whose name is typed on the filing.

Note: Authority cited: Sections 3025, 3041, 3070.2, Business and Professions Code. Reference: Sections 3070.2, Business and Professions Code; Sections 1633.2, 1633.7, and 1633.9, Civil Code; Section 16.5, Government Code.

§ 1587. Patient Notification and Records

(a) Each owner and operator of a mobile optometric office shall meet the requirements in sections 1566 and 1566.1 requiring the posting of a consumer notice in a conspicuous place in the mobile optometric office.

(b) In addition to the posted notice required by subdivision (a), each owner and operator of a mobile optometric office shall provide each patient, or the patient's caregiver or guardian, a consumer notice in at least 12-point font containing all of the following information:

(1) The name, license number, telephone number, primary business address, and business email address (if any), of the optometrist directing medical operations at the mobile optometric office;

(2) The owner and operator of the mobile optometric office's name, primary business address, telephone number, website or email address (if any), and Board-issued certificate to operate number;

(3) Information on follow-up care available for the patient, including a list of available Medi-Cal or volunteer optometrists; and,

(4) The following information:

NOTICE OF REGULATION AND WHO TO CONTACT REGARDING COMPLAINTS

The operation of mobile optometric offices and optometrists providing services at a mobile optometric office are regulated by the California State Board of Optometry ("Board"). The Board 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:

Board of Optometry
California Department of Consumer Affairs
2450 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.

(c) Each owner and operator of a mobile optometric office shall retain in the patient's file, along with the notice required by this section, an acknowledgement of receipt of the consumer notice that sets forth all of the following: (1) the patient has received the consumer notice required by this section; (2) the printed name of the patient or the patient's caregiver or guardian, (3) the signature of the patient or the patient's caregiver or guardian; and (4) the date of receipt.

(d) An owner and operator of a mobile optometric office shall maintain at the primary business office in California a copy of all records required by Section 3070.2 of the code and this Article. The records may be maintained in either paper or electronic form.

Note: Authority cited: Sections 138, 3025, 3041, 3070.2, Business and Professions Code. Reference: Sections 138, 3041, 3041.3, 3070, 3070.1, 3070.2, Business and Professions Code.