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State of California

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Susy Yu, OD, MBA, FAAO
Vice President

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Member

Kenneth Lawenda, OD
Member

Fred Naranjo, MBA
Member

Edward J. Rendon, MPA
Member

Katrina Semmes
Member

Richard Simonds, OD
Member

2420 Del Paso Road, Ste 255
Sacramento, CA 95834
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California State Board of Optometry
2420 Del Paso Road, Suite 255, Sacramento, CA 95834

Teleconference Board Meeting
Monday, March 23, 2009
9:00 a.m.
Agenda

**The California State Board of Optometry will meet via telephone on
March 23, 2009, beginning at 9:00 a.m. at the following locations:**

2420 Del Paso Road, Suite 255, Sacramento, CA 95834

9033 Wilshire Blvd., Suite 402, Beverly Hills, CA 90211

45493 South Fork Drive, Three Rivers, CA 93271

17250 Russet Street, San Diego, CA 92127

155 Cadillac Drive, Sacramento, CA 95825

7300 Wyndham Drive, Sacramento, CA 95823

818 Oak Park Road, Covina, CA 91724

4580 Electronics Place, Los Angeles, CA 90039

4695 MacArthur Court, Suite 310, Newport Beach, CA 92660

325 Copa De Oro Drive, Brea, CA 92823

FULL BOARD OPEN SESSION

1. Call to Order - Establishment of a Quorum
2. Discussion and Possible Action To Adopt California Code of Regulations Title 16, Section 1524, Fees

Public comments will be taken on agenda items at the time the specific item is raised. 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.

NOTICE: The meeting facilities are accessible to persons with disabilities. Please make requests for accommodations to the attention of Krista Eklund at the Board of Optometry, 2420 Del Paso Road, Suite 255, Sacramento, CA 95834, or by phone at (916) 575-7172, no later than one week prior to the meeting.

If you have any questions please contact the Board at (916) 575-7170.



Call to Order – Establish a Quorum

Agenda Item 1

Lee Goldstein, O.D., M.P.A., President

Susy Yu, O.D., M.B.A., F.A.A.O., Vice-President

Monica Johnson, Secretary

Alejandro Arredondo, O.D.

Martha Burnett-Collins, O.D.

Kenneth Lawenda, O.D.

Fred Naranjo, M.B.A.

Edward J. Rendon, M.P.A.

Katrina Semmes

Richard Simonds, O.D.



Discussion and Possible Action To Adopt California Code of Regulations Title 16, Section 1524, Fees

Agenda Item 2

Background:

The Fee Regulation Rulemaking File was withdrawn from the Office of Administrative Law (OAL) on March 5, 2009 after it was brought to the Board's attention that there were a few discrepancies found during the final approval review:

- 1) It appears the Board never officially adopted the proposed language to amend California Code of Regulations (CCR) Section 1524. Though the meeting minutes reflect the Board did discuss this issue, the Board did not make a motion or vote.
- 2) Yen Ma, OD, submitted a public comment in opposition of the fee increase.
- 3) The maximum biennial renewal fee for a Statement of Licensure is \$40.00. The fee is established in Business and Professions Code section 3152 subdivision (l). The proposed language erroneously states annual, and must be edited read biennial to fit the statute.

As soon as these issues are addressed, staff will resubmit the file to the Division of Legislative and Policy Review, the Legal Office and the Department of Consumer Affairs Director before resubmitting to OAL. If we are able to get the file back to OAL by the first week of April, then the regulation can be adopted as planned and we can begin to collect the new fees as scheduled.

Action Requested:

Staff requests the Board take the following action:

- 1) Formally approve the modified text in section (j) (1), which is being changed from annual to biennial.
- 2) Fully address Dr. Ma's comment as thoroughly as possible even though it is being rejected. A proper response that will show adequate consideration will describe why it is still necessary to increase the fees as proposed, despite Dr. Ma's concerns. According to OAL, relying on what has already been said does not show any consideration. Government Code section 11346.9, subdivision (a)(5) calls for an explanation with reasons.
- 3) Formally adopt regulation 1524, after addressing Dr. Ma's comment. A motion is required and must be reflected on the minutes. The minutes will be submitted to complete the Rulemaking File.

Attachments

1. Order of Adoption

2. Business and Professions Code 3152
3. Comments
 - a. California Optometric Association
 - b. Yen Ma, OD

BOARD OF OPTOMETRY

ORDER OF ADOPTION

Amend section 1524 of Division 15 of Title 16 of the California Code of Regulations to read as follows:

§ 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	\$300	<u>425</u>
(c)	Delinquency fee for failing to renew a certificate of registration timely	\$25	<u>50</u>
(d)	Application fee for a branch office license	\$60	<u>75</u>
(e)	Annual renewal of a branch office license	\$60	<u>75</u>
(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	\$10	<u>50</u>
(i)	Annual renewal of a fictitious name permit	\$10	<u>50</u>
	<u>(1) Delinquency fee for failure to renew a fictitious name permit timely</u>	<u>\$25</u>	
(j)	Application fee for a statement of licensure	\$20	<u>40</u>
	<u>(1) Annual Biennial renewal of a statement of licensure</u>	<u>\$40</u>	
	<u>(2) Penalty fee for failure to renew a statement of licensure timely</u>	<u>\$20</u>	
(k)	Application fee for a certificate to use therapeutic pharmaceutical agents	\$25	
<u>(l)</u>	<u>Application fee for approval of a continuing education course</u>	<u>\$50</u>	
<u>(m)</u>	<u>Application fee for a certificate to treat primary open angle glaucoma</u>	<u>\$35</u>	
<u>(n)</u>	<u>Application fee for a certificate to perform lacrimal irrigation and dilation</u>	<u>\$25</u>	

NOTE: Authority cited: Sections 3025, 3044, 3075, 3152 and 3152.5, Business and Professions Code. Reference: Sections 3075, ~~3125~~ 3078, 3152 and 3152.5, Business and Professions Code.

Dated: _____

Mona Maggio
Executive Officer
Board of Optometry

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

(a) The fee for applicants applying for a license shall not exceed two hundred seventy-five dollars (\$275).

(b) The fee for renewal of an optometric license shall not exceed five hundred dollars (\$500).

(c) The annual fee for the renewal of a branch office license shall not exceed seventy-five dollars (\$75).

(d) The fee for a branch office license shall not exceed seventy-five dollars (\$75).

(e) The penalty for failure to pay the annual fee for renewal of a branch office license shall not exceed twenty-five dollars (\$25).

(f) The fee for issuance of a license or upon change of name authorized by law of a person holding a license under this chapter shall not exceed twenty-five dollars (\$25).

(g) The delinquency fee for renewal of an optometric license shall not exceed fifty dollars (\$50).

(h) The application fee for a certificate to treat lacrimal irrigation and dilation shall not exceed fifty dollars (\$50).

(i) The application fee for a certificate to treat glaucoma shall not exceed fifty dollars (\$50).

(j) The fee for approval of a continuing education course shall not exceed one hundred dollars (\$100).

(k) The fee for issuance of a statement of licensure shall not exceed forty dollars (\$40).

(l) The fee for biennial renewal of a statement of licensure shall not exceed forty dollars (\$40).

(m) The delinquency fee for renewal of a statement of licensure shall not exceed twenty dollars (\$20).

(n) The application fee for a fictitious name permit shall not exceed fifty dollars (\$50).

(o) The renewal fee for a fictitious name permit shall not exceed fifty dollars (\$50).

(p) The delinquency fee for renewal of a fictitious name permit shall not exceed twenty-five dollars (\$25).

WRITTEN COMMENTS

The Board of Optometry received two comments regarding the proposed amendment to Section 1524.

Copies of the comments are attached and the comments and response/s to the comments are entered into the Final Statement of Reasons.



California Optometric Association

2415 K Street Sacramento, California 95816
916.441.3990.Ext. 227 · Fax: 916.448.1423 · E-mail: contact@coavision.org

September 15, 2008

Gary Randolph
California State Board of Optometry
2420 Del Paso Rd., Ste. 255
Sacramento CA 95834

RE: NOTICE OF PROPOSED RULEMAKING
Title 16, California Code of Regulations §1524

Dear Mr. Randolph:

The California Optometric Association (COA), representing 2,700 licensed California Optometric Doctors, appreciates the opportunity to comment on your proposal to amend Section 1524 of Title 16 to set and adjust various fees charged for statutorily required activities of the Board.

COA has no suggested amendments to the Proposed Language and offers the following comments for the record:

- These proposed fee changes are the first proposed by the Board since 1993 and represent the first increase in the biennial license renewal fee in 11 years.
- The proposed fee changes are consistent with authority granted the Board by Assembly Bill 986 (Eng – Stats.2007, Ch. 276), which amended Section 3152 to increase statutory maximums for certain existing fees and to establish new fee categories and caps. COA supported enactment of AB 986; a copy of our letter to the Governor is attached.
- COA's support of AB 986 followed review of the Board's budget situation by our Legislation and Regulation Committee and negotiations between COA and Board staff that began in late 2005. During that review, COA was satisfied that Board staff had exhausted alternatives to increasing fees to maintain fiscal solvency and expected to increase fees in Fiscal Year 2006-07.
- Management initiatives postponed the need for a fee increase through FY 2007-08, but the Board's operational costs have increased since then.
- Based on its own review of Board operations, the COA is satisfied with the Factual Rationale for the proposed increases as stated in the Initial Statement of Reasons.

“Setting the standard in eye care”

GARY RANDOLPH – 16 CCR §1524

September 15, 2008

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Again, thank you for the opportunity to comment on this proposed regulation. Should you have questions or need additional information about COA's position, please feel free to contact Tim Hart, Director of Government & External Affairs, at (916) 441-3990 or timh@coavision.org.

Sincerely,

A handwritten signature in black ink, appearing to read "David Redman", with a long, sweeping horizontal line extending to the right.

David Redman, O.D.
President

DOR:th

Attachment

C: COA Board of Trustees

COA Legislation and Regulation Committee

Hon. Mike Eng, Chairman, Assembly Business & Professions Committee

Hon. Mark Ridley-Thomas, Chairman, Senate Business, Professions & Economic Development Committee



California Optometric Association

2415 K Street Sacramento, California 95816
916.441.3990.Ext. 227 · Fax: 916.448.1423 · E-mail: contact@coavision.org

September 17, 2007

Hon. Arnold Schwarzenegger
Governor, State of California
ATTN: Ana Matosantos, Deputy Legislative Secretary
State Capitol
Sacramento CA 95814

RE: ASSEMBLY BILL 986 (ENG)
COA POSITION: SUPPORT

Dear Gov. Schwarzenegger:

The California Optometric Association (COA), representing more than 2,700 licensed California Optometric Doctors, **supports Assembly Bill 986 and respectfully requests that you sign it into law.**

This bill, sponsored by the State Board of Optometry, makes three significant changes to the Optometric Practice Act:

- *New Section 3007* creates a clear statutory standard for retention of patient records by optometrists. This provision will promote uniformity, as well as a standard for enforcement, and is comparable to requirements already in place for similarly-regulated healing arts professions.
- *Section 3070* is amended to make it clear that optometrists who work away from their “principle places of practice” part-time or on a temporary basis – for charitable reasons; in patients’ homes or nursing homes; in public facilities; or to “cover” for another optometrist – do not have to register those places of temporary practices as “branch offices.” The State Board is given the flexibility to define what constitutes “temporary practice,” subject to the amendment’s norms and safeguards to assure that patients are always adequately informed.
- *Section 3152* is amended to raise current statutory caps on various fees that the State Board is authorized to charge. This is the first such increase that the Board has actively sought in over a decade. COA has reviewed the Board’s current and forecasted budget conditions and is satisfied that this authority is essential to their execution of their public protection mission.

COA does not believe enactment of AB 986 will have a negative fiscal impact on Board operations because it imposes no new mandates or responsibilities. To the contrary, raising the statutory fee caps on current activities to levels necessary to cover the costs of those requirements and authorizing new fees for functions the Board already performs will assure the Board’s fiscal health into the near future.

“Setting the standard in eye care”

The only negative votes cast against this bill were by Senators who expressed to us their belief that any legislative increase in fee authorizations for regulatory bodies is objectionable, regardless of whether the regulated profession supports them or not. Like anyone else, our members do not support proposed fee increases without solid justification. Our decision makers reviewed the State Board's budget situation and concluded that the increases contained in AB 986 are necessary; the Board has not increased its fee caps in 12 years and, in that time, investigative and legal costs outside the Board's control have increased substantially.

For these reasons, **COA supports AB 986 and respectfully requests your signature on the bill.**

I will be pleased to discuss this bill with you or your staff at your convenience.

Sincerely,



Robert M. Theaker, O.D.
President

RMT:th

C: Hon. Mike Eng
Hon. Ed Hernandez, O.D.
Happy Chastain, Deputy Secretary for Legislation, State and Consumer Services Agency
Laura Zuniga, Deputy Director, Legislative & Regulatory Review, Department of Consumer Affairs
Crystal Granby, Legislative Analyst, Division of Legislative & Regulatory Review, Department of Consumer Affairs
Taryn Smith, Executive Officer, State Board of Optometry
Cliff Berg, Governmental Advocates, Inc.
Terence McHale, Aaron Read & Associates

COPY



Gary
Randolph/Optometry/DCANotes

08/06/2008 09:24 AM

To y m <yma_od@hotmail.com>
cc
bcc Gary Randolph/Optometry/DCANotes
Subject Re: Proposed Fee Increase

Dear Dr. Ma:

Thank you for your response. Your comments will be duly noted.

Sincerely,

GARY D. RANDOLPH
Licensing and Legislative Analyst
California State Board of Optometry
tel: (916) 575-7170
fax: (916) 575-7292

y m <yma_od@hotmail.com>



y m <yma_od@hotmail.com>
08/04/2008 09:32 AM

To <gary_randolph@dca.ca.gov>
cc
Subject Proposed Fee Increase

Mr. Randolph:

The board is proposing an increase in optometric fees and invited input from the community to be emailed to you. I am an optometrist and would like to go on the record as opposing the fee increases. I don't think the board has explained why we need this fee increase. At a time when the economy is not doing well and everyone is tightening their belts, I don't think higher fees is appropriate especially when the increase in the biennial renewal fee is greater than 40%.

Sincerely,

Yen Ma, O.D.
#11180T

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