

**TITLE 16. California State Board of Optometry
DEPARTMENT OF CONSUMER AFFAIRS**

INITIAL STATEMENT OF REASONS

Hearing Date: No hearing date scheduled.

Subject Matter of Proposed Regulations: Home Residence Permits

Section(s) Affected: Adopt Title 16, California Code of Regulations (CCR), section 1507.5 and Amend CCR Title 16 1524.

Background and Statement of the Problem:

The California State Board of Optometry (Board) currently regulates approximately 9,200 optometrists and 4,200 dispensing opticians. Business and Professions Code (BPC) section 3010.1 provides protection of the public is the highest priority for the Board in exercising its licensing, regulatory and disciplinary functions. BPC section 3025 authorizes the Board to make rules and regulations governing the procedure of the Board, the admission of applicants for examination for an optometry license, and the practice of optometry. BPC section 3070.1 authorizes the Board to adopt regulations that prescribe the form and manner in which an optometrist who is certified to use therapeutic pharmaceutical agents pursuant to BPC section 3041.3 may apply for a home residence permit.

Home Residence Permits were established by Assembly Bill (AB) 458 (Nazarian, Chapter 425, Statutes of 2019), which became effective January 1, 2020, and amended Business and Professions Code (BPC) sections 3070.1 and 3152. This California State Board of Optometry sponsored bill, amended Section 3070.1 to allow an optometrist who is certified to use therapeutic pharmaceutical agents to obtain a home residence permit by submitting an application to the board and paying applicable fees and established a process for the issuance and renewal of home residence permits, including prescribing application, renewal, and delinquency fees.

This proposal is necessary because it implements BPC Section 3070.1 by making Title 16 CCR 1524 consistent with BPC 3152 and by adopting CCR section 1507.5 that specify the requirements to obtain and maintain a Home Residence Permit.

The proposal also is consistent with Goal 3.3 of the Board's Amended 2021-2025 Strategic Plan, which states: "Explore current and emerging methods, opportunities, and technology to increase access and equity to care while maintaining a world-class standard of vision care (e.g., scope of practice, delegation of authority, and telemedicine)."

This proposal helps achieve this goal by expanding access to eye care to the homebound, enabling underserved or vulnerable populations to receive comprehensive eye care within the comfort of their own residence, while also providing consumer protection, by having a way to track licensees working out of their homes.

At the February 25, 2021, Consumer Protection and Outreach Committee (CPOC) public meeting, the CPOC reviewed the changes proposed in this regulatory package and recommended approval to the full Board. The full Board, at its May 21, 2021, public meeting, reviewed and approved the proposed text and delegated authority to the Executive Officer to make any technical, non-substantive changes if necessary.

Anticipated benefits from this regulatory action:

The anticipated benefits of home residence permits are significant, positively impacting both regulatory alignment and public welfare. Here are the key advantages:

The proposed changes aim to align Title 16 CCR section 1524 with BPC 3070.1, ensuring that the program is in full regulatory compliance. This alignment sets a solid foundation for seamless integration and operation.

Introducing new section 1507.5 establishes comprehensive guidelines for home residence permit applications, renewals, notice and recordkeeping requirements.

Application guidelines for the home residence permit set compliance standards for applicants. This ensures that only qualified and capable individuals are entrusted with providing optometric care.

The institution of fees for the home residence permit enables the Board to efficiently administer the program. This financial structure ensures that the program remains sustainable and well-supported.

Home residence permits directly benefit Californians who are unable to leave their residence due to health or other incapacities. By allowing optometrists to treat patients where they are, the program addresses a critical healthcare gap, ensuring that vulnerable populations have access to essential vision services.

According to the 2024 California Master Plan on Aging, by 2030, one in four Californians will be age 60 or older. The number of people aged 60 and over in California will grow to more than 14 million by 2050, an increase of 128% from 2010. Statistically, more than 1 million of these people will be housebound and in need of home-based care. Additionally, many of those people may not have access to regular eye care screenings and services, especially in rural and underserved areas.

Access to optometric care has the potential to significantly improve the health outcomes of individuals in these underserved populations. Both the Centers for Disease Control

and the National Institutes for Health have noted the importance of eye health and the role of vision impairment as a serious health concern, especially in older adults.

This proposal aligns with regulatory requirements and prioritizes public safety, efficient administration, and, most importantly, the health and well-being of Californians in need. This initiative represents a significant step towards ensuring equitable access to high-quality optometric care for all.

Specific purpose of, and rationale for, each adoption, amendment, or repeal:

Adopt section 1507.5 – Home Residence Permits

Subdivision (a)

Purpose:

This proposal adopts a new subdivision (a) and establishes application requirements for obtaining the Home Residence Permit, including specific information to be provided in the application as spelled out in subdivisions (a)(1) – (a)(7), below. This subdivision also establishes the expiration date of the first permit and ties it to the expiration date of the Optometrist license.

Rationale:

The application requirements are needed for the Board to effectively evaluate applications. Optometrist licenses are issued for two years, expiring at the end of the month it was issued in. Tying the home residence permit to the expiration of the optometrist license eases the compliance burden to the licensee and administratively ensures a smoother application and licensing process.

Subdivision (a)(1)

Purpose:

This subdivision requires the applicant's first, middle, and last names.

Rationale:

Requesting this information is crucial for the effective and efficient processing of the application, as it enables the responsible authorities to reach out to the applicant when necessary. Additionally, by requiring this information upfront, it reduces the likelihood of errors or discrepancies in the contact information, which could potentially delay the processing of the application. Overall, the inclusion of a basic information section on the application is a practical and necessary step towards streamlining the application process and ensuring that all relevant details are captured accurately.

Subdivision (a)(2)

Purpose:

This subdivision requires the applicant disclose the full address of their primary business office.

Rationale:

To ensure that all relevant and necessary details about the applicant are captured accurately. An address where the applicant does business is critical for the board to know where its permit holders operate. Overall, the inclusion of primary business office information on the application is a practical and necessary step towards ensuring that all relevant details are captured accurately, and the responsible authorities can verify the applicant's qualifications effectively.

Subdivision (a)(3)

Purpose:

This subdivision requires the applicant disclose the phone number of their primary business office.

Rationale:

To ensure that all relevant and necessary details about the applicant are captured accurately. A phone number for the applicant's primary business office is critical for the board to allow timely contact. Overall, the inclusion of primary business office information on the application is a practical and necessary step towards ensuring that all relevant details are captured accurately, and the responsible authorities can verify the applicant's qualifications effectively.

Subdivision (a)(4)

Purpose:

This subdivision requires the applicant disclose their email address.

Rationale:

To ensure that all relevant and necessary details about the applicant are captured accurately. An email address for the applicant is critical for the board to allow timely contact with the applicant. Overall, the inclusion of primary business office information on the application is a practical and necessary step towards ensuring that all relevant details

are captured accurately, and the responsible authorities can verify the applicant's qualifications effectively.

Subdivision (a)(5)

Purpose:

This subdivision requires the applicant disclose their license number.

Rationale:

To ensure that all relevant and necessary details about the applicant are captured accurately. An optometrist license with therapeutic pharmaceutical agents certification is required to obtain a home residence permit. The inclusion of license information on the application is a practical and necessary step towards ensuring that all relevant details are captured accurately, and the responsible authorities can verify the applicant's qualifications effectively.

Subdivision (a)(6)

Purpose:

This subdivision requires the applicant declare under penalty of perjury that all information provided in the application and any accompanying documents are 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.

Rationale:

This proposal adopts a requirement that applicants declare, under penalty of perjury, that all information and documents provided in the application are true and accurate. This proposal ensures that applicants know they are expected to give factual information and provides some penalty information for failure to do so.

Subdivision (a)(7)

Purpose:

This subdivision requires the applicant declare under penalty of perjury that the applicant will comply with all state and federal recordkeeping, reporting, and patient record disclosure requirements.

Rationale:

This proposal implements BPC 3070.1(c)(2) which describes record keeping and disclosure requirements for patients and their representatives. These recordkeeping and disclosure requirements exist to protect patients and consumers.

Subdivision (b)

Purpose:

This proposal adopts a new subdivision (b) and establishes requirements for renewing the Home Residence Permit, including the information to be included in the renewal application as spelled out in subdivisions (b)(1) – (b)(7), below.

Rationale:

The renewal application requirements are needed for the Board to effectively evaluate applications. The proposal requires biennial renewal, which is the same cycle for the optometrist license. Since only a California-licensed optometrist can hold a home residence permit, tying the renewal cycle together makes the most sense from a licensee and administrative perspective.

Subdivision (b)(1)

Purpose:

This subdivision requires the applicant's first, middle, and last names.

Rationale:

Requesting this information is crucial for the effective and efficient processing of the application, as it enables the responsible authorities to reach out to the applicant when necessary. Additionally, by requiring this information upfront, it reduces the likelihood of errors or discrepancies in the contact information, which could potentially delay the processing of the application. Overall, the inclusion of a basic information section on the application is a practical and necessary step towards streamlining the application process and ensuring that all relevant details are captured accurately.

Subdivision (b)(2)

Purpose:

This subdivision requires the applicant disclose the full address of their primary business office.

Rationale:

To ensure that all relevant and necessary details about the applicant are captured accurately. An address where the applicant does business is critical for the board to ~~know where its permit holders operate. Overall, the inclusion of primary business office~~

information on the application is a practical and necessary step towards ensuring that all relevant details are captured accurately, and the responsible authorities can verify the applicant's qualifications effectively.

Subdivision (b)(3)

Purpose:

This subdivision requires the applicant disclose the phone number of their primary business office.

Rationale:

To ensure that all relevant and necessary details about the applicant are captured accurately. A phone number for the applicant's primary business office is critical for the board to allow timely contact. Overall, the inclusion of primary business office information on the application is a practical and necessary step towards ensuring that all relevant details are captured accurately, and the responsible authorities can verify the applicant's qualifications effectively.

Subdivision (b)(4)

Purpose:

This subdivision requires the applicant disclose their email address.

Rationale:

To ensure that all relevant and necessary details about the applicant are captured accurately. An email address for the applicant is critical for the board to allow timely contact with the applicant. Overall, the inclusion of primary business office information on the application is a practical and necessary step towards ensuring that all relevant details are captured accurately, and the responsible authorities can verify the applicant's qualifications effectively.

Subdivision (b)(5)

Purpose:

This subdivision requires the applicant disclose their license number.

Rationale:

To ensure that all relevant and necessary details about the applicant are captured accurately. An optometrist license with therapeutic pharmaceutical agents certification is required to obtain a home residence permit. The inclusion of license information on the application is a practical and necessary step towards ensuring that all relevant details are captured accurately, and the responsible authorities can verify the applicant's

qualifications effectively.

Subdivision (b)(6)

Purpose:

This subdivision requires the applicant declare under penalty of perjury that all information provided in the application and any accompanying documents are true and accurate, and that the applicant understands and agrees that any misstatements of materials facts may be cause for denial of the application and discipline by the Board.

Rationale:

This proposal adopts a requirement that applicants declare, under penalty of perjury, that all information and documents provided in the application are true and accurate. This proposal ensures that applicants know they are expected to give factual information and provides some penalty information for failure to do so.

Subdivision (b)(7)

Purpose:

This subdivision requires the applicant declare under penalty of perjury that the applicant will comply with all state and federal recordkeeping, reporting, and patient record disclosure requirements.

Rationale:

This proposal implements BPC 3070.1(c)(2) which describes record keeping and disclosure requirements for patients and their representatives.

Subdivision (c)

Purpose:

This proposal adopts a new subdivision (c) and establishes requirements for consumer notices to be provided to patients, including the information to be included on the consumer notice as spelled out in subdivision (c)(2), below.

Rationale:

This proposal implements BPC 3070.1(e) which states “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.”

Subdivision (c)(1)

Purpose:

This proposal adopts a new subdivision (c)(1) and requires that each patient be given a consumer notice meeting CCR section 1507.5(c)(2).

Rationale:

Consistent with the board’s public protection mission, it is crucial to inform patients of their rights, complaint-filing procedures, and prescription information.

Subdivision (c)(2)

Purpose:

This proposal adopts a new subdivision (c)(2) which, in subdivisions (c)(2)(A) and (c)(2)(B), below, describes the information required to be on a consumer notice.

Rationale:

Consistent with the board’s public protection mission, it is crucial to inform patients of their rights, complaint-filing procedures, and prescription information.

Subdivision (c)(2)(A)

Purpose:

This proposal adopts a new subdivision (c)(2)(A) which requires that the consumer notice referenced in subdivision (c)(2) contain specified information about the applicant, including their name, license number, and primary business address.

Rationale:

This proposal implements BPC 3070.1(e) which states “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.”

Subdivision (c)(2)(B)

Purpose:

This proposal adopts subdivision (c)(2)(B) which specifies the additional information that shall be included in the Consumer Notice. The proposal requires the notice to state that “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.

Rationale:

This proposal implements BPC 3070.1(e) which states “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.”

The Board is statutorily required to protect consumers and the provision of optometric services within the private residence of a patient requires, from a public protection

perspective, that patient's know their rights and how to access them.

Subdivision (c)(3)

Purpose:

This proposal adopts a new subdivision (c)(3) which requires that each patient or patient's caregiver sign and acknowledge receipt of the consumer notice referenced in subdivision (c)(2). The subdivision also requires the signed acknowledgment be retained in the patient's file.

Rationale:

This proposal implements BPC 3070.1(e) which states "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."

Requiring the consumer notice to be provided to and signed by the patient is an important consumer protection measure. It serves to ensure the patient understands their rights when accessing eye care from a licensed optometrist operating with a home residence permit.

Subdivision (d)

Purpose:

This proposal adopts a new subdivision (d) which requires that the authorization for release of the patient's medical information be signed separately from the signature required in subdivision (c)(3) above.

Rationale:

This proposal clarifies that the items (c)(2) and (c)(3) be signed separately. This helps ensure the patient or patient's caregiver is acknowledging both items.

Amend section 1524 – Fees

Subdivision (r)

Purpose:

This proposal adds a new subdivision (r) and establishes the application fee for a home residence permit at \$50.

Rationale:

AB 458 (Nazarian) Chapter 425, Statutes of 2019 amended BPC 3152 to say “The application fee for a home residence permit is fifty dollars (\$50). The board may increase the fee to not more than one hundred dollars (\$100).” Updating the regulation will make it consistent with the language in the controlling statute.

Subdivision (s)

Purpose:

This proposal adds a new subdivision (s) and establishes the renewal fee for a home residence permit at \$50.

Rationale:

AB 458 (Nazarian) Chapter 425, Statutes of 2019 amended BPC 3152 to say “The renewal fee for a home residence permit is fifty dollars (\$50). The board may increase the fee to not more than one hundred dollars (\$100).” Updating the regulation will make it consistent with the language in the controlling statute.

Subdivision (t)

Purpose:

This proposal adds a new subdivision (u) and establishes a delinquency fee for failure to timely renew a home residence permit at \$25.

Rationale:

AB 458 (Nazarian) Chapter 425, Statutes of 2019 amended BPC 3152 to say “The delinquency fee for a home residence permit is twenty-five dollars (\$25). The board may increase the fee to not more than one hundred dollars (\$100).” Updating the regulation will make it consistent with the language in the controlling statute.

Non-Substantive Changes

On May 2, 2024, the following non-substantive technical changes were made to the text approved by the Board at the May 21, 2021, meeting pursuant to the Executive Officer’s delegation by the Board to the Executive Officer at that May meeting:

- (1) Correcting an erroneous inclusion of the immunization certification fee in Section 1524 (r). The immunization certification fee is in statute at Business and Professions Code section 3152, not at Section 1524 (r).

Underlying Data

1. Assembly Bill 458 (Nazarian, Chapter 425, Statutes of 2019)
2. February 25, 2021 Consumer Protection & Public Relations And Outreach Committee Agenda; Relevant Meeting Materials; Minutes
3. May 21, 2021 Board Meeting Agenda; Relevant Meeting Materials; and Meeting Minutes

Business Impact:

The Board made the initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other States.

This initial determination is based on the following:

The Home Residence Permit program is exclusive to California-licensed optometrists. Optometrists opting to obtain a home residence permit will be required to apply for licensure and pay applicable fees, including:

- Home Residence Permit Application Fee (\$50)
- Home Residence Permit Renewal Fee (\$50)
- Home Residence Permit Delinquency Fee (\$25)

The Board anticipates up to 20 licensees will opt to apply for the initial home residence permit per year and will renew biennially with costs ranging from approximately \$1,000 to \$5,000 per year and up to \$30,000 over a ten-year period as follows:

CA State Board of Optometry Home Residence Permit - Economic Impact (Costs)													
Registration Type	Fee Amount	Applicants Per Year	Years Ongoing										Total
			1	2	3	4	5	6	7	8	9	10	
Home Residence Permit - Initial	\$50	20	20	20	20	20	20	20	20	20	20	20	200
		Sub-total:	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$10,000
Home Residence Permit - Renewal (biennial)	\$50	Various	-	-	20	20	40	40	60	60	80	80	400
		Sub-total:	-	-	\$1,000	\$1,000	\$2,000	\$2,000	\$3,000	\$3,000	\$4,000	\$4,000	\$20,000
Total Costs:			\$1,000	\$1,000	\$2,000	\$2,000	\$3,000	\$3,000	\$4,000	\$4,000	\$5,000	\$5,000	\$30,000

Economic Impact Assessment:

This regulatory proposal would have the following effects:

- It will not create jobs within the State of California because this proposal expands an existing licensee's scope of practice to include in-home care, as specified.

- It will not create new business or eliminate existing businesses within the State of California because this proposal expands an existing licensee’s scope of practice to include in-home care, as specified.
- It will not affect the expansion of businesses currently doing business within the State of California, including those that offer optometric care, because home residence permits are intended to allow licensed Optometrists to serve homebound patients who are disabled, elderly, or otherwise unable to obtain vision care services at the Optometrist’s office. The proposed regulation only aims to improve access to care for homebound individuals.
- This regulatory proposal benefits the health and welfare of California residents because the proposed regulation will clarify the application requirements for the home residence permit and further ensure that only qualified Optometrist licensees are permitted to practice within a patient’s home.
- It does not affect worker safety because the proposed regulation is not related to worker safety.
- It does not affect the state’s environment because the proposed regulation is unrelated to the state’s environment.

Fiscal Impact

The Board anticipates up to 20 licensees will opt to apply for the initial home residence permit per year and will renew biennially.

Expenditures: The regulations are projected to result in workload and costs ranging from approximately \$2,200 to \$14,600 per year and up to \$80,100 over a ten-year period as follows:

CA State Board of Optometry Home Residence Permit - Fiscal Impact (Workload Costs)														
Registration Type	Costs	Applicants Per Year	Years Ongoing*										Total	
			1	2	3	4	5	6	7	8	9	10		
Home Residence Permit - Initial	\$112	20	20	20	20	20	20	20	20	20	20	20	20	200
		Sub-total:	\$2,240	\$2,307	\$2,376	\$2,448	\$2,521	\$2,697	\$2,675	\$2,755	\$2,838	\$2,923	\$25,679	
Home Residence Permit - Renewal (biennial)	\$112	Various	-	-	20	20	40	40	60	60	80	80	400	
		Sub-total:	-	-	\$2,376	\$2,448	\$5,042	\$5,194	\$8,024	\$8,265	\$11,350	\$11,691	\$54,390	
Total Costs:			\$2,240	\$2,307	\$4,753	\$4,895	\$7,563	\$7,790	\$10,699	\$11,020	\$14,188	\$14,613	\$80,069	

*Includes three percent annual growth factor

Revenues: The regulations are anticipated to result in annual initial and renewal permit

revenues ranging from approximately \$1,000 to \$5,000 per year and up to \$30,000 over a ten-year period as follows:

CA State Board of Optometry Home Residence Permit - Fiscal Impact (Revenues)													
Registration Type	Fee Amount	Applicants Per Year	Years Ongoing										
			1	2	3	4	5	6	7	8	9	10	Total
Home Residence Permit - Initial	\$50	20	20	20	20	20	20	20	20	20	20	20	200
		Sub-total:	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$1,000	\$10,000
Home Residence Permit - Renewal (biennial)	\$50	Various	-	-	20	20	40	40	60	60	80	80	400
		Sub-total:	-	-	\$1,000	\$1,000	\$2,000	\$2,000	\$3,000	\$3,000	\$4,000	\$4,000	\$20,000
Total Revenues:			\$1,000	\$1,000	\$2,000	\$2,000	\$3,000	\$3,000	\$4,000	\$4,000	\$5,000	\$5,000	\$30,000

Specific Technologies or Equipment:

This regulation does not mandate the use of specific technologies or equipment.

Consideration of Alternatives:

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

No such alternatives have been proposed; however, the Board welcomes comments from the public.

Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:

No such alternatives have been proposed; however, the Board welcomes comments from the public.