

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 15.
CALIFORNIA STATE BOARD OF OPTOMETRY

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:

Home Residence Permits

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

NOTICE IS HEREBY GIVEN that the California State Board of Optometry (Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail, facsimile, or e-mail to the addresses listed under “Contact Person” in this Notice, must be **received by the Board at its office no later than by Tuesday, September 3, 2024**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by section(s) 137, 138, 3025, 3041, 3044, 3070.1, 3075, 3092, 3110, 3152, 3152.5, of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC section(s) 27, 30, 31, 136, 137, 138, 142, 144, 163.5, 480, 494.5, 495, 2544, 3041, 3041.3, 3055, 3070, 3070.1, 3075, 3077, 3078, 3092, 3110, 3151, 3151.1, 3152, 3152.5, the Board is considering adopting section 1507.5 and amending section 1524 of title 16 of the California Code of Regulations (CCR).

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

Home Residence Permit program was 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. Among other things, Section 3070.1 would 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 would establish a process for the issuance and renewal of home residence permits, including prescribing application, renewal, and delinquency fees.

BPC section 3070.1 authorizes the Board to prescribe how an optometrist can apply for a home residence permit. BPC section 3070.1 also authorizes the Board to prescribe the consumer notice that an optometrist must provide to a consumer prior to engaging in the practice of optometry at a home residence.

Existing regulations do not provide the process for issuing permits for optometrists to acquire a home residence permit nor do existing regulations provide for the consumer notice.

This proposal would set such standards in regulation by adopting the Home Resident Permit application at CCR section 1507.5 and proposed amendments at CCR section 1524.

Existing law at BPC section 3152 (u)(v) and (w) set the home resident permit application fee, renewal fee, and delinquency fee at \$50, \$50, and \$25, respectively.

This proposal would also place these fee amounts in regulation, at CCR 1524.

Specifically, the Board's proposal includes the following:

- Adopt section 1507.5 of Article 2 of Division 15 of Title 16 of the CCR to establish all the following:
 - (A) Initial application requirements, as specified.
 - (B) Renewal requirements, including that the home residence permit is valid for two years or until the optometrist's license renewal date, as specified.
 - (C) The consumer notice required to be provided to each patient, either in-person or electronically. The notice requirements specifically include a minimum 14-point font requirement, and require the following information:
 - a. The name, license number, email address, telephone number, primary business address and normal business hours of the optometrist.
 - b. At a minimum the additional following information:
 - i. CONSUMER NOTICE

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.

- (D) A requirement for each patient, or patient's caregiver, to sign and acknowledge that they have received the consumer notice. This must be retained in the patient's file.
- (E) A requirement that the authorization provided by the optometrist to the patient or patient's caregiver to release the patient's medical information to the Board shall be signed separately from the consumer notice signature requirement.

- Amend section 1524 of Article 5 of Division 15 of Title 16 of the CCR to include fees for all of the following:

- (A) application fee for a home residence permit,
- (B) the renewal fee for a home residence permit, and
- (C) the delinquency fee for a home residence permit.

Anticipated Benefits of Proposal

The anticipated benefits of the home residence permit program are substantial and wide-reaching, positively impacting both regulatory alignment and public welfare. Here are the key advantages:

The proposal aims to implement the home resident permit program by adopting Title 16 CCR section 1507.5, aligning it with BPC section 3070.1. Amending Title 16 CCR section 1524 aligns it with BPC section 3152. This ensures that the Board's home residence permit program is in full regulatory compliance. This alignment sets a solid foundation for seamless integration and operation.

Introducing new section 1507.5 establishes a comprehensive application and renewal process for the home residence permit program. These guidelines serve as a roadmap, providing specific direction and requirements for optometrists seeking a home residence permit.

Application and registration requirements for the home residence permit set minimum standards for applicants. This ensures that only qualified and capable individuals are entrusted with providing optometric care at these home residences.

The institution of application, renewal, and delinquency 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.

The home residence program directly benefits all Californians but especially those residing in underserved, low-income, and rural areas of the state. By authorizing through regulation services to be provided to patients in their homes, optometrists will be able to increase access to optometric care. As a result, the proposed home residence program addresses a critical healthcare gap, ensuring that vulnerable populations have access to essential vision services within the comfort of their personal residences.

Increased access to optometric care has the potential to significantly improve the health outcomes of individuals in underserved communities. Early detection and intervention

for vision issues can prevent more severe complications and enhance overall well-being.

This proposal complies with the legislative mandate to establish such standards and prioritizes public safety, efficient administration, and, most importantly, the health and well-being of Californians in need. This proposal represents a significant step towards ensuring equitable access to high-quality optometric care for all.

Evaluation of Consistency and Compatibility with Existing State Regulations

During the process of developing this regulatory proposal, the Board has conducted a search of any similar regulations on these topics and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

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 \$2,200 to \$14,600 per year and up to \$80,100 over a ten-year period.

The Board does not anticipate additional enforcement-related workload or costs resulting from the proposed regulations.

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.

The regulations do not result in any costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Cost to any Local Agency or School District for which Government Code Sections 17500 – 17630 Require Reimbursement: None

Mandate Imposed on Local Agencies or School Districts: None.

Significant Effect on Housing Costs: None.

BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This initial determination is based on the following facts:

The home residence permit program is exclusive to licensed optometrists in the State of California. The purpose of the home residence permit program is to expand access to eye care, especially to underserved communities in California.

Individuals opting to apply for a home residence permit will be required to apply for licensure and pay applicable fees, including:

- Home Residence Permit (Initial Application): \$50
- Biennial Renewal: \$50
- 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.

Cost Impact on Representative Private Person or Business

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The regulations would allow California licensed optometrists to provide their services in home residences, positively benefiting California consumers by increasing access to eye care.

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.

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

Impact on Jobs / Businesses

The California State Board of Optometry has determined that this regulatory proposal will not have significant impact on the following:

- 1) the creation or elimination of jobs within the state,
 - 2) the creation of new businesses or the elimination of existing businesses within the state, or,
 - 3) the expansion of businesses currently doing business within the state.
- This proposal would not have any of the above-referenced impacts as explained in the “Business Impact Estimates” section of this notice.

This new business model was created by legislation enacting BPC section 3070.1 and the proposed regulations only aim to improve access to care for consumers and better define existing laws and processes. Additionally, since home residence permits would be an optional service, it does not require startup costs that all licensees would be forced to implement.

Benefits of Regulation:

The California State Board of Optometry has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents. The proposed regulations will implement a home residence permit program that directly benefits Californians residing in underserved, low-income, and rural areas of the state. By authorizing through regulation services to be provided through home residence permits, optometrists will be able to increase access to eye care.

This proposal will set minimum standards for home residence permits to meet and therefore ensure that only qualified and capable individuals are entrusted with providing optometric care at personal residences. This helps in effective enforcement, safeguarding the well-being of patients and the community.

This regulatory proposal does not affect or relate to either worker safety or the state’s environment as this proposal is not related to any of those issues.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Effect on Small Business

The Board estimates minimal cost impacts a small business would necessarily incur in reasonable compliance with the proposed action.

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.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; would be as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 2450 Del Paso Road, Suite 105, Sacramento, California 95834 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons named in this notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board, at 2450 Del Paso Road, Suite 105, Sacramento, California 95834.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons who submit written comments or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the Contact Person named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Gregory Pruden
Address: California State Board of Optometry
2450 Del Paso Road, Suite 105, Sacramento, CA 95834
Telephone No.: 916-574-7808
E-Mail Address: Gregory.Pruden@dca.ca.gov

The backup contact person is:

Name: Randy Love
Address: California State Board of Optometry
2450 Del Paso Road, Suite 105, Sacramento, CA 95834
Telephone No.: 279-895-1471
E-Mail Address: Randy.Love@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations with modifications noted, as well as the Final Statement of Reasons when completed, and modified text , if any, can be accessed through the Board's website at <https://optometry.ca.gov/lawsregs/propregs.shtml>