



## ISSUE MEMORANDIUM

<b>DATE</b>	May 31, 2024
<b>TO</b>	Members, California State Board of Optometry
<b>FROM</b>	Gregory Pruden, Executive Officer & Elizabeth Dietzen-Olsen, Regulatory Counsel
<b>SUBJECT</b>	<b>Agenda Item #8 – Discussion and Possible Action to Approve Modified Text and Responses to Comments and Continue Rulemaking to Amend Title 16 California Code of Regulations Sections 1505 and 1524, and Adopt Sections 1583 – 1587, Mobile Optometric Office Program.</b>

### Background:

In 2019, Assembly Bill (AB) 896 (Low, Chapter 121, Statutes of 2020) was introduced, Board-sponsored, and was amended later that year to codify the modern models of mobile optometric care operated by nonprofits and charity providers. The Mobile Optometric Office (MOO) program was created when AB 896 was signed into law on September 24, 2020. The bill created a new Business and Professions Code (BPC) Section 3070.2. It defines a “mobile optometric office” as a “mobile optometric office” means a trailer, van, or other means of transportation in which the practice of optometry, as defined in Section 3041, is performed and which is not affiliated with an approved optometry school in California.”

It required the Board to establish a registration program by January 1, 2022, and it exempts from the MOO registration program all of the following:

- (1) Optometric services provided remotely by an approved optometry school in California that meets the requirements of Section 1507 of Title 16 of the California Code of Regulations.
- (2) (2) A licensee engaged in the practice of optometry at a facility defined in paragraph (1), (2), or (3) of subdivision (a) of Section 3070.1.
- (3) (3) A federally qualified health center, as defined in Section 1396d(l)(2)(B) of Title 42 of the United States Code.
- (4) (4) A nonprofit or charitable organization exempt from taxation pursuant to Section 501(c)(3), 501(c)(4), or 501(c)(6) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3), 501(c)(4), or 501(c)(6)), which utilizes the volunteer services of licensees engaging in the temporary practice of optometry pursuant to subdivision (b) of Section 3070.

(5) (5) A free clinic, as defined in subparagraph (B) of paragraph (1) of subdivision (a) of Section 1204 of the Health and Safety Code, which is operated by a clinic corporation, as defined in paragraph (3) of subdivision (b) of Section 1200 of the Health and Safety Code.

(6) (6) A specialized vision health care service plan, as defined in subdivision (f) of Section 1345 of the Health and Safety Code, formed and existing pursuant to the provisions of the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code).

The next year, AB 1534 (Committee on Business and Professions, Chapter 630, Statutes of 2021), was signed into law on October 7, 2021, making further changes to BPC section 3070.2, including delaying by one year the date by which the Board must promulgate the regulations to establish the registration program.

At the January 7, 2022, public Board meeting, a workgroup was created consisting of two members: former Board Member Dr. David Turetsky, O.D., and Eunie Linden. The workgroup met on February 16, April 13, and April 27, 2022, for a preliminary review of the draft regulatory proposal.

At the [May 20, 2022, public Board meeting](#) the proposal was approved by the Board.

Following Board approval in 2022, several key staff members departed the Board and work on the package came to a standstill. In the fall of 2022, a new Executive Officer and Policy Analyst began with the Board. During 2023 work on the regulatory package documents began and in August 2023 the full package was submitted to the Board's regulation counsel. In November 2023 the Board's Policy Analyst departed for another state agency and in December 2023 the full package was sent to the Director of the Department of Consumer Affairs for review and approval. At the same time, IT implementation work with the DCA BreEZe team began.

Since December 2023, Board staff have participated in more than a dozen IT implementation meetings. During this time, while building the business process requirements for the three applications required, a reevaluation of the application and licensing steps was conducted which led to a significant downward revision to the proposed fee. Under the MOO registration scheme, an applicant will first need an owner and operator registration before they can apply for up to 12 permits in the first licensure period. Officers and officials must also be fingerprinted. These three transactions must all be linked together, which BreEZe is not able to do automatically thus requiring staff manual manipulation to match applicant records. However, Board staff was able to leverage an existing workaround used by another DCA program to match the fingerprint application with the owner and operator registration. Working closely with the BreEZe team and the Department's Budget Office, we propose to modify the fee from \$2,632 to \$360 for a biennial registration. Attachment 3 includes the workload analysis to support this fee.

Additionally, some of the provisions of the originally proposed text, such as the requirement for patient or guardian/parent acknowledgement of receipt of a required consumer notice, may have had the unintentional consequence of making the expansion of optometric care, the purpose of mobile optometric offices, more difficult. The modified text proposes the consumer notice to be filed in the patients' medical record but does not require the provider to obtain acknowledgement from the patient, or their parent/guardian, that it was received.

The process to enact regulations is a public one and it must provide the public with a meaningful opportunity to participate in the adoption of rules that have the force of law and that impact their activities.

The modified proposal includes important modifications which would not have happened without the sincere participation of the public. Board staff is appreciative of the comments.

Presented today in this item for your discussion and possible approval are modifications to the proposal which strengthen the Board's ability to effectively regulate mobile optometric offices.

### **Public Comment**

The 45-day public comment period began on February 23, 2024, when the Board's [Notice of Proposed Regulatory Action](#), [Initial Statement of Reasons](#), and [Proposed Regulatory Language](#) were posted on the Board's website and [published](#) by the Office of Administrative Law (OAL). The comment period ended on April 9, 2024, and the Board received three public comments.

### **Summary of and Proposed Responses to Public Comments**

In accordance with Government Code section 11346.9, subdivision (a)(3), the Board, in its Final Statement of Reasons supporting the rulemaking, must summarize each objection or recommendation and the reasons for making or not making a change. Summaries of the comments received and proposed responses are below for Board consideration and approval.

#### **A. April 9, 2024 email from Ann Hollister, CEO, Vision To Learn.**

##### **Comment A-1 Summary:**

Ms. Hollister states that Vision To Learn is "pleased to submit comments and recommendations regarding the proposed regulations" implementing the mobile optometric office program. Ms. Hollister also states that she "hopes Vision To Learn's accumulated expertise will be helping in crafting regulations that will support school-based mobile vision care in its mission to help kids get the glasses they need to succeed, throughout California."

##### **Response:**

The Board acknowledges and thanks Ms. Hollister and Vision To Learn for their comments.

**Comment A-2 Summary:**

Ms. Hollister states “the proposed Application fee for a certificate to operate an owner and operator of a mobile optometric office - \$2,632 – is nearly ten times the existing registration fee for an optometrist. Based on this fee, and the fee for each mobile optometric office permit, a nonprofit mobile optometric provider operating 12 mobile clinics in California would pay over \$8,000 in fees every two years. Vision To Learn understands the need for fees to cover the cost of administering licensing and reporting requirements. We request that the Board carefully balance the true costs of staff hours needed to do so with the goal of allowing nonprofit providers to use carefully raised philanthropic funding to directly help as many kids as possible.”

**Response:**

The Board accepts this comment.

The Board conducted a revised workload cost analysis which supports an initial fee of \$360 for an owner and operator of a mobile optometric office, and a biennial renewal fee of \$360.

**Comment A-3 Summary:**

Ms. Hollister states that the definition of “responsible officers or officials” is “the individuals listed by the applicant as the principal officers or officials responsible for the operations of the applicant’s organization.” However, Ms. Hollister states, it is unclear how the entity should identify those responsible officers and whether it applies to board members and/or executive staff and the term “officers” is also unclear if that means all corporate officers or only those required by the Secretary of State.

Ms. Hollister recommends “increasing the grace period to report changes to the Board from fourteen to thirty days” to “allow adequate time to collect the relevant information and is more consistent with what is required under other state laws”, citing for example the 35 days that Medi-Cal allows for changes to be reported.

Ms. Hollister states that Vision To Learn is concerned that the fingerprint requirement for all responsible officers or officials is broad and may seem to apply to the entire board of Vision To Learn. Ms. Hollister cites Medi-Cal requirements which only requires providers deemed to be high risk to submit fingerprints and states that under the mobile optometric office program, only nonprofits and charitable organizations may operate the clinics and these organizations, nonprofits and charities, do not have the same high risk that other providers might.

**Response:**

The Board accepts in part and rejects in part these comments.

The Board accepts the comments regarding the broad fingerprint requirement for responsible officers or officials and accepts that nonprofits and charitable organizations are generally lower risk entities than for profit enterprises. As such, the Board amended the requirement to provide a list of all officers or officials responsible for the operations

of the organization, including their addresses, social security numbers, phone numbers, and emails. Instead, the modified text requires the applicant to identify the “responsible” officers or officials “in positions of authority either elected or designated, as determined by” the organization.

Nonprofit corporations organized as 501(c)(3) or charitable organizations organized as a 501 (c)(4) must elect or designate the officers or officials having responsibility for the organization and the Board requires information on these individuals for the reasons stated on pages 14 and 15 of the Initial Statement of Reasons.

The Board rejects the comment recommending an increase in the grace period to report changes to the Board from 14 days to 30. Business and Professions Code section 3070.2 (g) requires the owner and operator of the mobile optometric office to notify the Board of any change to this information within 14 days.

**Comment A-4 Summary:**

Ms. Hollister recommends that subdivision (b)(4) of section 1584, which would require the owner and operator to “confirm they have read or received notice of the limitations on operating more than twelve (12) mobile optometric offices within the first renewal period” be amended to reference the code number of the authorizing statute to provide consistency if the statute should ever change in the future.

**Response:**

The Board accepts this comment and proposes in the modified text to delete the requirement that the owner and operator “confirm they have read or received notice of the limitations on operating more than twelve (12) mobile optometric offices within the first renewal period.”

**Comment A-5 Summary:**

Ms. Hollister states that Vision To Learn appreciates the Board needs information regarding each mobile optometric permit and office that is operating but is “concerned that the requirements are burdensome and impossible to comply with given the nature of mobile services.” Ms. Hollister states that optometrists operating at mobile clinics frequently change and last-minute schedule changes are frequent. Ms. Hollister states that Vision To Learn maintains accurate records of which optometrists saw which patients on any given day.

Ms. Hollister states that in their largest region, Los Angeles County, they may have more than a dozen optometrists working different days on a single mobile clinic and they may also work on other clinics. Ms. Hollister states rather than requiring the owner to disclose where each licensed optometrist is providing services at the specific mobile optometric office location, Vision To Learn would request that each owner provide a master list of all the optometrists working in a particular region who might provide services on various clinics.

Ms. Hollister states that “it will be very hard to provide accurate and complete information” to comply with the requirement of subdivision (b)(F)(ii)-(vi) of Section 1584.5, which requires information about the licensed optometrists and registered opticians providing patient care, intended dates of operation, and cities and counties served. Ms. Hollister states it would be hard to provide this information because the optometrists who provide services in the mobile optometric office work in multiple offices.

Ms. Hollister states that subdivision (b)(F)(vii)(a) of section 1584.5 requires the mobile optometric office to provide an access ramp or lift, which Vision To Learn does not have on all offices. Ms. Hollister recommends adding the phrase “or written plan to accommodate students with disabilities.”

Ms. Hollister states that subdivision (b)(F)(vii)(b) requires the mobile optometric office to attest that it has an accessible handwashing facility on the premises. Ms. Hollister states that “Vision To Learn always makes sure that there is an accessible handwashing facility either on the mobile optometric office or on the site where the mobile optometric office will conduct examinations.” Ms. Hollister recommends “that “on the premises” be defined to include accessible facilities on the site where the mobile optometric office will conduct exams.

Ms. Hollister states that subdivision (d) of section 1584.5 requires “that each specific ID number of the mobile optometric office be identified on all forms of advertisement, solicitation, or other presentments made to the public.” Ms. Hollister states that “due to the nature of mobile services, this is not always possible well in advance of services, when public notice (such as letters sent home to parents/guardians) would be provided. Ms. Hollister suggests “the more relevant information for a parent/guardian would be the name of the specific optometrist providing services, which could be provided on paperwork sent home following the eye examination.” Ms. Hollister states that “if permit ID numbers are required, we would recommend allowing paperwork to list the permit numbers of all the potential mobile optometric offices that might service the location.”

**Response:**

The Board accepts in part and rejects in part these comments.

The Board accepts that the nature of mobile optometric services is such that scheduling changes do occur and that the licensed optometrist directing the medical operations of the mobile optometric office may change. However, the Board rejects the comment and recommendation that a master list be provided by the owner and operator of all the optometrists working in a particular region who might provide services on various clinics because Business and Professions Code section 3070.2 (e)(2) requires the owner and operator of a mobile optometric office to provide the names and license number of optometrists who are providing care.

Further, the Board rejects the comment because Business and Professions Code section 3070.2 (n) requires any licensed optometrist who provides care in conjunction

with a mobile optometric office to obtain a Statement of Licensure with the mobile optometric office's address as registered with the Board, unless their primary address of record is the mobile optometric office.

While the Board rejects this comment for the stated reasons, it did modify the text in subsection (b)(2)(C) of section 1584.5 to require the identifying information of "any" licensed optometrist providing services, instead of "the" licensed optometrist. This change was made to accommodate the fact that there may be more than one licensed optometrist providing services at the mobile optometric office and the Board, pursuant to Business and Profession Code section 3070.2 must receive information about all of them.

The Board rejects the comment that "it will be very hard to provide accurate and complete information" to comply with the requirement of subdivision (b)(F)(ii)-(vi) of section 1584.5, which requires information about the licensed optometrists and registered opticians providing patient care, intended dates of operation, and cities and counties served. The Board rejects the comment because Business and Professions Code section 3070.2 (e) requires this information to be provided.

The Board accepts the comment and recommendation that a written plan to accommodate those with disabilities may be acceptable in lieu of the mobile optometric office having a ramp or lift. The Board modified the text to read: "or other alternative method, as documented in a written plan, to accommodate patients with access issues."

The Board accepts the comment and recommendation to define "on the premises" as it pertains to the requirement that each mobile optometric office have accessible handwashing facilities on the premises. The Board modified the text to read: "For purposes of this section, "on the premises" includes accessible facilities that are located at the physical site where the mobile optometric office is providing services."

The Board accepts the comment and recommendation to list the permit numbers of all potential mobile optometric offices that might service the location on advertisements, solicitations, and other presentations. The Board modified the text to read: "For purposes of advertisement, solicitations, and other presentments to the public, a registrant may include any and all permit numbers of the potential mobile optometric offices servicing the location."

**Comment A-6 Summary:**

Ms. Hollister states that Vision To Learn is concerned that the fingerprint requirement is too broad if applied to board members and executives and may be inconsistent with other provisions of law. Ms. Hollister "encourages the Board to consider limiting the fingerprint requirement to Executive Staff as it is not appropriate or necessary to include the entire board members."

**Response:**

The Board accepts in part and rejects in part these comments.

On pages 18 and 45 of Initial Statement of Reasons, the Board discussed the purpose and rationale for subdivisions (b)(3) of section 1583 and section 1585, which established the fingerprint requirement for officers and officials of a nonprofit or charitable organization seeking application for owner and operator of a mobile optometric office. As noted therein, the Board is fully within its legal authority to require every officer and official of a nonprofit or charitable organization who is seeking application as an owner and operator of a mobile optometric office to be fingerprinted. This authority is supported both by statutory law and case law.

However, the Board agrees that such a broad requirement could be onerous for nonprofit and charitable organizations.

The Board modified the text to require the applicant to identify the “responsible” officers or officials “in positions of authority either elected or designated, as determined by” the organization.

Nonprofit corporations organized as 501(c)(3) or charitable organizations organized as a 501 (c)(4) must elect or designate the officers or officials having responsibility for the organization and the Board requires information on these individuals for the reasons stated on pages 14 and 15 of the Initial Statement of Reasons.

**Comment A-7 Summary:**

Ms. Hollister states that “Vision To Learn’s electronic health records database is not currently able to store a mobile optometric office permit number in relation to each exam day or patient record” as would be required by subdivision (b)(2)(E) of section 1586. Instead, Vision to Learn can “broadly” track which offices an optometrist serves, but it would take a significant amount of time to report this information in a quarterly report. Ms. Hollister states that if “there were ever a problem or complaint made about a particular visit, Vision To Learn would be able to review records and determine what offices was associated with what particular issue. However, regularly reporting on this information would take significant time and resources and would take away from our ability to serve patients.”

**Response:**

The Board rejects this comment. Business and Professions Code section 3070.2 (f) requires, with no exception, the owner and operator of a mobile optometric office to file a quarterly report with the Board that contains a list of all visits made, including dates of operation, address, care provided, and names and license numbers of optometrists and opticians who provided care. Section 1586 implements this requirement.

**Comment A-8 Summary:**

Ms. Hollister states that “Subsection (c) would require mobile optometric offices to collect and store acknowledgement of receipt of the consumer notice” and that this “would not be possible for Vision To Learn, as our services are provided in California using opt-out consent, under Ed Code Section 49455.5.” Ms. Hollister recommends this requirement be deleted.



**Response:**

The Board accepts this comment.

Business and Professions Code section 3070.2 (h)(1) requires the owner and operator of the mobile optometric office to provide each patient and, if applicable, the patient’s caregiver or guardian, a consumer notice prescribed by the board. This section implements that requirement. However, the section also would require acknowledgement of this notice and require the acknowledgement to be documented. This requirement to opt-in to mobile optometric services would be in conflict with existing law which authorizes opt-out consent and may serve to weaken access to care instead of increasing it.

The Board modified the text to remove the acknowledgement requirement and clarified that each owner and operator of a mobile optometric office shall retain the consumer notice in the patient’s “medical record”, consistent with Business and Professions Code section 3070.2 (h)(2). The Board also modified the text to require that the optometrist also record in the medical record: (1) that the patient, caregiver, or guardian received the notice and (2) the date the optometrist provided it.

**B. April 9, 2024, Email from Kristine Shultz, Executive Director, California Optometric Association (COA)**

**Comment B-1 Summary**

Ms. Shultz states COA is pleased to comment on the proposal and “supports the board’s proposed regulations that implement this law.”

**Response:**

The Board acknowledges and thanks the COA for their comments.

**Comment B-2 Summary**

Ms. Shultz states that COA is “concerned about the proposed fees. Ms. Shultz states that the proposed fee of \$2,632 is “very high and might prohibit smaller, non-profit organizations from operating in California.” Ms. Shultz encourages the Board to reduce the reporting requirements to only those mandated by statute as a way to help reduce the cost to the Board, allowing the fee to be reduced.

**Response:**

The Board accepts this comment.

The Board conducted a revised workload cost analysis which supports an initial fee of \$360 for an owner and operator of a mobile optometric office, and a biennial renewal fee of \$360.

**C. April 6, 2024 Letter from Barbara B. Hines, President & CEO, Queens Care, postmarked April 8, 2024 and received on April 11, 2024.**

**Comment C-1 Summary:**

Ms. Hines states she is “pleased to submit comments and recommendations regarding the proposed regulations” and that since 2000 QueensCare has provided vision screenings and glasses to students of Los Angeles Unified School District, having screened more than 250,000 students and provided more than 40,000 pairs of prescription glasses.

**Response:**

The Board acknowledges and thanks Ms. Hines and QueensCare for their comments.

**Comment C-2 Summary:**

Ms. Hines states that the proposed fee is “nearly ten times the existing registration fee for an optometrist” and the proposed application fee for a mobile optometric office is “nearly seven times the existing branch office license fee for a traditional brick-and-mortar office.” Ms. Hines requests that the Board “consider that every dollar spent on licensing and fees is one less dollar spent serving a child whose only access to vision care and glasses is through these non-profit programs.”

**Response:**

The Board accepts in part and rejects in part this comment.

The Board accepts the comment regarding the initial and biennial fees to own and operate a mobile optometric office. The Board conducted a revised workload cost analysis which supports an initial fee of \$360 for an owner and operator of a mobile optometric office, and a biennial renewal fee of \$360.

The Board rejects the comment regarding the fee for a mobile optometric office. Business and Professions Code section 3070.2 (d) mandates a minimum permit fee of \$472 which can be raised to a maximum of \$600. Subdivisions (u) and (v) of section 1524 implement the minimum fee of the range provided for in statute.

**Comment C-3 Summary:**

Ms. Hines states that in subdivision (a)(2)F) of section 1583, the term “owners or officials responsible for the operations of the organization” is unclear whether that applies to board members and/or executive staff. Ms. Hines recommends “amending this section to read “A list of all officers and governing board members (collectively, “Officials”)... ” Then “Officials” would be substituted for “officers or officials” elsewhere in the regulations.”

Ms. Hines states that QueensCare understand the need to ensure safety by instituting a fingerprint requirement but recommends not applying it to governing board members as it might create a barrier to service on volunteer boards. Instead of requiring fingerprints for board members, Ms. Hines recommends that the “owner and operator attest to the board members clearance following a thorough background check to include local and national criminal checks and sex offender checks.”

Ms. Hines states that they recommend that the grace period to report changes to the Board as required in subdivision (c) of section 1583 be increased from 14 days to 45 days.

Ms. Hines recommends adding in subdivision (e) of section 1583 the following language: "Completed applications shall be approved or denied within 60 days of submission." This sets reasonable expectations for the applicant and allows program planning around the time required to process a completed application."

**Response:**

The Board accepts in part and rejects in part these comments.

The Board accepts the comments regarding the broad fingerprint requirement for responsible officers or officials and accepts that nonprofits and charitable organizations are generally lower risk entities than for profit enterprises. As such, the Board amended the requirement to provide a list of all officers or officials responsible for the operations of the organization, including their addresses, social security numbers, phone numbers, and emails. Instead, the modified text requires the applicant to identify the "responsible" officers or officials "in positions of authority either elected or designated, as determined by" the organization.

Nonprofit corporations organized as 501(c)(3) or charitable organizations organized as a 501 (c)(4) must elect or designate the officers or officials having responsibility for the organization and the Board requires information on these individuals for the reasons stated on pages 14 and 15 of the Initial Statement of Reasons.

The Board rejects the comment recommending an increase in the grace period to report changes to the Board from 14 days to 45. Business and Professions Code section 3070.2 (g) requires the owner and operator of the mobile optometric office to notify the Board of any change to this information within 14 days.

The Board accepts the comment recommending the inclusion of language stating that "completed applications shall be approved or denied within 60 days of submission" and modifies the text to state that: "Applicants shall receive written notice of approval or denial from the Board within 60 days from the date the Board receives a completed application. "Completed application" means that all required information, documentation, and fees have been filed by the applicant as required by this article or Section 3070.2 of the code."

**Comment C-4 Summary:**

Ms. Hines states that the optometrists who work for QueensCare largely do not have an interest in the business aspects of the mobile practice. Ms. Hines recommends that subdivision (b)(3) of section 1584, be revised, which requires the medical operations of the clinic to be directed by a licensed optometrist, to not include other business aspects such as hiring and supervising staff, scheduling patients, and establishing charges. Ms. Hines states that "these duties detract from the optometrist's ability to provide patient

care.” Instead, Ms. Hines recommends the following language: “The medical operations of the mobile optometric office are directed by a licensed optometrist, including the selection and supervision of patient care staff, the amount of time the optometrist spends with patients, the examination procedures, the treatment provided to patients, and the follow-up care.”

Ms. Hines states that subdivision (b)(4) of section 1584 be revised to reference the statutory code section instead of including specific language, because should the statute change the regulation would be out of agreement.

Ms. Hines states that the Federal Trade Commission “Eyeglass Rule requires optometrists to provide patients their prescription post-exam whether they ask for it or not. We recommend deleting Sec. (6) or the words, “Upon request by the patient's caregiver or guardian.”

**Response:**

The Board accepts in part and rejects in part these comments.

The Board rejects the comments regarding subdivision (b)(3) of section 1584 because the Board’s proposal implements statutory requirements. Business and Professions Code section 3070.2 (c)(2) states: “The medical operations of the mobile optometric office shall be directed by a licensed optometrist and in every phase shall be 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 or optician spends with patients, the fees charged for optometric products and services, the examination procedures, the treatment provided to patients, and the followup care pursuant to this section.”

The Board accepts the comment regarding subdivision (b)(4) of section 1584 and proposes in the modified text to delete the requirement that the owner and operator “confirm they have read or received notice of the limitations on operating more than twelve (12) mobile optometric offices within the first renewal period.”

The Board rejects the comment regarding the “Eyeglass Rule” and the recommendation to either delete subdivision (b)(6) of section 1584 or to delete the words “Upon request by the patient’s caregiver or guardian.” Federal law, under what is commonly known as the Eyeglass Rule, provides that it is an “unfair act or practice” for an optometrist to “fail to provide to the patient one copy of the patient’s prescription immediately after the eye examination is completed.” The proposed language at subdivision (b)(6) of section 1584 is not in conflict with the Federal Eyeglass Rule because it would require a copy of the prescription that was provided to the patient to *also* be provided to the parent or guardian.

**Comment C-5 Summary:**

Ms. Hines recommends changing subdivision (b)(2)(C) and subdivision (b)(2)(F)(iv) of section 1584.5 to require an annual report with updates required every 45 days of any

change. Ms. Hines states this is needed because of variation in provider services and staffing issues.

Ms. Hines states that subdivision (b)(F)(vii)(a) of section 1584.5 implies that an access ramp or lift is a required feature of the mobile optometric office and suggests a requirement that the program is required to have a policy and procedure for accommodating students and patients with disabilities.

Ms. Hines suggests in subdivision (b)(F)(vii)(b) of section 1584.5 that a definition of “on the premises” be included to define accessible facilities on the site where the mobile optometric office will conduct exams.

**Response:**

The Board accepts and rejects in part these comments.

The Board rejects the comments regarding subdivision (b)(2)(C) and subdivision (b)(2)(F)(iv) of section 1584.5 because the Board’s proposal implements statutory requirements. Business and Professions Code section 3070.2 (e)(2) requires the owner and operator of a mobile optometric office to provide the following information to the Board: “The names and optometry license numbers of optometrists, registration numbers of opticians, and names of any other persons who are providing patient care, as described in Section 2544.”

The Board accepts that the nature of mobile optometric services is such that scheduling changes do occur and that the licensed optometrist directing the medical operations of the mobile optometric office may change. However, the Board rejects the comment and recommendation that an annual report listing the providers serving the program with updates required every 45 days be provided in lieu of the proposal because it is not consistent with the statutory requirements.

Further, the Board rejects the comment because Business and Professions Code section 3070.2 (n) requires any licensed optometrist who provides care in conjunction with a mobile optometric office to obtain a Statement of Licensure with the mobile optometric office’s address as registered with the Board, unless their primary address of record is the mobile optometric office.

While the Board rejects this comment for the stated reasons, it did modify the text in subsection (b)(2)(C) of section 1584.5 to require the identifying information of “any” licensed optometrist providing services, instead of “the” licensed optometrist. This change was made to accommodate the fact that there may be more than one licensed optometrist providing services at the mobile optometric office and Board, and pursuant to Business and Profession Code section 3070.2 must receive information about all of them.

The Board rejects the comment with respect to subdivision (b)(F)(ii)-(vi) of Section 1584.5, which requires information about the licensed optometrists and registered

opticians providing patient care, intended dates of operation, and cities and counties served. The Board rejects the comment because Business and Professions Code section 3070.2 (e) requires this information to be provided.

The Board accepts the comment and recommendation that a policy or procedure for accommodating those with disabilities may be acceptable in lieu of the mobile optometric office having a ramp or lift. The Board modified the text to read: “or other alternative method, as documented in a written plan, to accommodate patients with access issues

The Board accepts the comment and recommendation to define “on the premises” as it pertains to the requirement that each mobile optometric office have an accessible handwashing facilities on the premises. The Board modified the text to read: “For purposes of this section, “on the premises” includes accessible facilities that are located at the physical site where the mobile optometric office is providing services.”

### **Comment C-6**

Ms. Hines states “requiring fingerprint submission from volunteer governing board members places an undue burden on the applicant when those members rarely encounter patients and staff at the program level, other than at site visits and through board reports.” Ms. Hines recommends that instead of a fingerprint requirement there be a requirement that the applicant “clear each governing board member by performing a background check that includes criminal history at both the local and national level.”

### **Response:**

The Board accepts in part and rejects in part these comments. The Board accepts that the fingerprint requirement may place an undue burden on volunteer board members who are unlikely to come into contact with patients or otherwise be involved in patient care.

On pages 18 and 45 of Initial Statement of Reasons, the Board discussed the purpose and rationale for subdivisions (b)(3) of section 1583 and section 1585, which established the fingerprint requirement for officers and officials of a nonprofit or charitable organization seeking application for owner and operator of a mobile optometric office. As noted therein, the Board is fully within its legal authority to require every officer and official of a nonprofit or charitable organization who is seeking application as an owner and operator of a mobile optometric office to be fingerprinted. This authority is supported both by statutory law and case law.

However, the Board agrees that such a broad requirement could be onerous for nonprofit and charitable organizations. As such, the Board amended the requirement to provide a list of all officers or officials responsible for the operations of the organization, including their addresses, social security numbers, phone numbers, and emails. Instead, the modified text requires the applicant to identify the “responsible” officers or officials “in positions of authority either elected or designated, as determined by” the organization.

Nonprofit corporations organized as 501(c)(3) or charitable organizations organized as a 501 (c)(4) must elect or designate the officers or officials having responsibility for the organization and the Board requires information on these individuals for the reasons stated on pages 14 and 15 of the Initial Statement of Reasons.

**Comment C-7:**

Ms. Hines “respectfully request that the reporting requirements outlined in subdivision (b)(2)(E) of section 1586 be provided annually, unless a complaint is received.” Ms. Hines suggest this would better align with other reporting requirements held by other agencies and suggests a recommendation that the regulations be drafted to require reporting within 45 days of any complaint report.

**Response:**

The Board rejects these comments. Business and Professions Code section 3070.2 (f) requires, with no exception, the owner and operator of a mobile optometric office to file a quarterly report with the Board that contains the following information:

- (1) A list of all visits made by each mobile optometric office, including dates of operation, address, care provided, and names and license numbers of optometrists and opticians who provided care.
- (2) A summary of all complaints received by each mobile optometric office, the disposition of those complaints, and referral information.
- (3) An updated and current list of licensed optometrists, registered opticians, and any other persons who have provided care within each mobile optometric office since the last reporting period.
- (4) An updated and current list of licensed optometrists who are available for followup care as a result of a complaint on a volunteer basis or who accept Medi-Cal payments.

Subdivision (b)(2)(E) of section 1586 implements this requirement.

**Comment C-8:**

Ms. Hines states that “QueensCare would not be able to comply with Subsection (c) as LAUSD utilizes an opt-out consent, under Ed Code Section 49455.5. While we send extensive communications to parents about our program, parents are not required to sign or return any notices. We recommend that subsection (c) be deleted.”

**Response:**

The Board accepts this comment.

Business and Professions Code section 3070.2 (h)(1) requires the owner and operator of the mobile optometric office to provide each patient and, if applicable, the patient’s caregiver or guardian, a consumer notice prescribed by the board. This section implements that requirement. However, the section also would require acknowledgement of this notice and require the acknowledgement to be documented.

This requirement to opt-in to mobile optometric services would be in conflict with existing law which authorizes opt-out consent and may serve to weaken access to care instead of increasing it.

The Board modified the text to remove the acknowledgement requirement and clarified that each owner and operator of a mobile optometric office shall retain the consumer notice in the patient's "medical record", consistent with Business and Professions Code section 3070.2 (h)(2). The Board also modified the text to require that the optometrist also record in the medical record: (1) that the patient, caregiver, or guardian received the notice and (2) the date the optometrist provided it.

### **Action Requested**

Please review the attached public comments and proposed Modified Text and the summary and proposed responses to comments set forth above.

**Option A:** If the Board agrees with the proposed responses to comments and the proposed Modified Text, please entertain a motion to:

Adopt the proposed responses to comments and the Modified Text and direct staff to send the Modified Text out for a 15-day public comment period. If no adverse public comments are received on the Modified Text, instruct the Executive Officer to take all steps necessary to complete the rulemaking process, authorize the Executive Officer to make any technical or non-substantive changes to the rulemaking package and amend sections 1505 and 1524, and adopt section(s) 1583, 1584, 1584.5, 1585, 1586 and 1587 as noticed in the Modified Text.

**Option B:** If the Board disagrees or has further changes to the text, please entertain a motion to:

Adopt the proposed responses to comments and direct staff to take all steps necessary to complete the rulemaking process, including preparing modified text for an additional 15-day comment period, which includes amendments to the Modified Text in **Attachment 1** discussed at this meeting [describe changes to Attachment 1 here]. If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and amend sections 1505 and 1524, and adopt section(s) 1583, 1584, 1584.5, 1585, 1586 and 1587 as noticed in the Modified Text.

**Attachment:**

1. Proposed Modified Text
2. MOO 45-day Comments
3. MOO Workload Costs



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

PROPOSED REGULATORY LANGUAGE

Mobile Optometric Office Owner and Permit Program

**Legend:**

Originally Proposed text additions are indicated with an underline.

Originally Proposed text deletions are indicated by ~~strikeout~~.

Modified Proposed text additions are indicated with a double underline.

Modified Proposed text deletions are indicated with a ~~double 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
- (r) Application fee for a certificate to operate as an owner and operator of a mobile optometric office ~~\$2,632~~ \$360
- (s) Biennial renewal fee for a certificate to operate as an owner and operator of a mobile optometric office ~~\$2,632~~ \$360
- (t) Delinquency fee for failure to renew a certificate to operate as an owner and operator of a mobile optometric office \$150
- (u) Application fee for a mobile optometric office permit \$472
- (v) Biennial renewal fee for a mobile optometric office permit \$472
- (w) Delinquency fee for failure to renew a mobile optometric office permit \$150

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~~ and 1587 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](http://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 submitting application on behalf of a nonprofit or charitable organization seeking to own and operate a mobile optometric office;
- (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](http://www.optometry.ca.gov);
- (F) A list of all responsible officers or officials in positions of authority, either elected or designated, as determined by 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 BreEZe on the Board's website at: [www.optometry.ca.gov](http://www.optometry.ca.gov);

(B) Full and complete fingerprints of the applicant's elected or designated 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 1584. For the purposes of this section, "responsible officers or officials" means the individuals listed by the applicant as the elected or designated 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. Applicants shall receive written notice of approval or denial from the Board within 60 days from the date the Board receives a completed application. "Completed application" means that all required information, documentation, and fees have been filed by the applicant as required by this article or Section 3070.2 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;~~

(45) 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;

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

(67) 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;

(78) 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

(89) 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](http://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~~ any 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;

(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 or other alternative method, as documented in a written plan, to accommodate patients with access issues;

- 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. For purposes of this section, “on the premises” includes accessible facilities that are located at the physical site where the mobile optometric office is providing services.
- 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. For purposes of advertisement, solicitations, and other presentments to the public, a registrant may include any and all permit numbers of the potential mobile optometric offices servicing the location.

(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 3025, 3041, 3070.2, Business and Professions Code.  
Reference: Sections 27, 30, 31, 136 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)(~~DH~~) 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 license 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](http://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](mailto:optometry@dca.ca.gov)  
Website: [optometry.ca.gov](http://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 the consumer notice required by subdivision (b) in the patient's medical record, and the optometrist shall record all the following in the medical record: (1) that the patient, caregiver, or guardian has received the consumer notice; and (2) the date the optometrist provided the consumer notice to the patient, caregiver, or guardian. ~~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 3025, 3041, 3070.2, Business and Professions Code.  
Reference: Sections 3041, 3041.3, 3070, 3070.1, 3070.2, Business and Professions  
Code.





Vision To Learn  
Focus on the Future

Letter A

April 9, 2024

Gregory Pruden  
California State Board of Optometry  
2450 Del Paso Road, Suite 105  
Sacramento, CA 95834  
VIA EMAIL: [Gregory.Pruden@dca.ca.gov](mailto:Gregory.Pruden@dca.ca.gov)

**RE: Written Comments to Proposed Regulatory Language  
Mobile Optometric Office Program**

Mr. Pruden,

On behalf of Vision To Learn, California's largest nonprofit provider of school-based mobile vision care, I am pleased to submit comments and recommendations regarding the proposed regulations. Since 2012, Vision To Learn has worked with licensed CA optometrists and opticians to provide students in underserved communities with vision screenings, eye exams and glasses, at no charge to students or their families. To date, Vision To Learn has provided over 1 million California students with vision care, including more than 267,000 provided with eye exams, and 217,000 with new prescription glasses. Our program has reached children in 27 counties, helping every student in need at over 2,800 schools and community organizations. Through this work Vision To Learn has demonstrated the enormous need for school-based mobile vision care to reach students who might otherwise rarely or never receive an eye exam or needed glasses.

A-1

We hope Vision To Learn's accumulated expertise will be helpful in crafting regulations that will support school-based mobile vision care in its mission to help kids get the glasses they need to succeed, throughout California. Thank you for the opportunity to submit these comments.

Free Glasses for Kids

12100 Wilshire Blvd. Suite 1275, Los Angeles, CA 90049 (800) 485-9196 [VisionToLearn.org](http://VisionToLearn.org)

Vision To Learn is a nonprofit, tax-exempt public charity under Section 501(c)(3) of the Internal Revenue Code.

**A-2****§1524. Fees**

Vision To Learn notes that the proposed “Application fee for a certificate to operate as an owner and operator of a mobile optometric office” - \$2,632 - is nearly ten times the existing registration fee for an optometrist. Based on this fee, and the fee for each mobile optometric office permit, a nonprofit mobile optometric provider operating 12 mobile clinics in California would pay over \$8,000 in fees every two years. Vision To Learn understands the need for fees to cover the cost of administering licensing and reporting requirements. We simply request that the Board carefully balance the true costs of staff hours needed to do so with the goal of allowing nonprofit providers to use carefully raised philanthropic funding to directly help as many kids as possible.

Other Department of Consumer Affairs boards with mobile clinics do not have as high fees for mobile clinics. For example, the Dental Board fees for mobile clinics is only \$100.<sup>1</sup> Further, other states do not charge the same amount for a mobile clinic. A similar license in South Carolina is only \$175.

**A-3****§1583. Registration Requirements for Ownership and Operation of Mobile Optometric Offices, etc.**

We appreciate that it is important that a license disclose information about the nonprofit corporation but would request that there be greater clarity regarding which individuals are responsible for the corporation. The definition of “responsible officers or officials” is “the individuals listed by the applicant as the principal officers or officials responsible for the operations of the applicant’s organization.” However, it is unclear how the entity should identify those responsible officers.

In (a)(2)(F) the phrase “officials responsible for the operations of the organization” is unclear as to whether it applies to board members and/or executive staff. The term “officers” is also unclear if that means all corporate officers or only those required by the Secretary of State.

In other contexts, there are clear definitions about what individuals are deemed to have responsibility for the corporation and therefore must be disclosed. For example, the California Department of Public Health (CDPH) requires that a corporation must disclose those that have “direct and indirect ownership or control of the entity”, as defined in California law for corporations as: “(5) Is an officer or director of a clinical laboratory that is organized as a corporation.” See Business and Professions section 1211. Further, in the case of Medi-Cal, the individuals required to be reported for those

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<sup>1</sup> [https://www.dbc.ca.gov/licensees/dds/permits/mobile\\_dental\\_clinic.shtml](https://www.dbc.ca.gov/licensees/dds/permits/mobile_dental_clinic.shtml)

applications also include those with “ownership or control Interest” defined for a corporation as “an officer or director of an applicant or provider that is organized as a corporation.” See 22 C.C.R.§ 51000.15. In those cases, it is clear that any person in an officer or board member/director role would need to be disclosed.<sup>2</sup> We would recommend that the definition be revised to be consistent with other areas of California law and to clarify that the corporate officers and board member information must be disclosed.

In (c) we recommend increasing the grace period to report changes to the Board from fourteen (14) to thirty (30) days. This will allow adequate time to collect the relevant information and is more consistent with what is required under other state laws. For example, Medi-Cal requires that changes of information or ownership be reported within 35 days. (See 22 C.C.R.§ 51000.30.)

We are concerned that the fingerprint requirement set forth in (3)(A) for all those “responsible officers or officials” is quite broad. Currently, all optometrists who provide care to patients are required to be fingerprinted. However, the requirement that all the responsible officers and officials be fingerprinted is very broad and would seem to include the entire board of Vision To Learn. Furthermore, in other contexts those with ownership or control over the entity are not always required to be fingerprinted. For example, Medi-Cal requires only providers categorized as high risk as required to submit fingerprints. (See Welf. & Inst. Code section 14043.38 and <https://mcweb.apps.prd.cammiis.medi-cal.ca.gov/page/medi-cal-requirement-to-submit-fingerprints-for-a-criminal-background-check>.) In this case, the statute only allows for mobile optometric offices to be nonprofit or charitable organizations that are exempt from taxation pursuant to Section 501(c)(3) or Section 501(c)(4). These organizations are providing charitable care and the risk of fraud, waste, and abuse is not the same as other providers that have been categorized as high risk. As such, Vision To Learn believes that while it might be appropriate to apply the fingerprinting requirement to Executive Staff, it is no appropriate or necessary to include the entire board members.

**A-4 § 1584. Certificate to Operate a Mobile Optometric Office, etc.**

This section requires that to renew a certificate, the mobile optometric office certifies in writing that it maintains compliance with the requirements set forth in the statute, section 3070.2. The regulation restates various requirements in statute.

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<sup>2</sup> In the case of a nonprofit corporation, there is no one with ownership interest as there are no stocks to own. Rather, the board members and the officers of the corporation have control over the corporation.

In (4) we recommend that, instead of restating the requirements set forth in section 3070.2, the regulation instead simply reference the code number. This will provide greater consistency if the statute changes in the future.

#### **A-5 § 1584.5. Mobile Optometric Office Permits**

This section contains the requirements to be issued a certificate to operate each mobile optometric office. We appreciate that the Board will need to have information regarding each permit and office that is operating by a particular owner, but we are concerned that the requirements are burdensome and, in some cases, impossible to comply with, given the nature of mobile services. Vision To Learn has many mobile optometric officers operating at one time and the schedules are not usually set out far in advance. Further, the optometrists at each office may change depending on where the office goes in each day. Unlike an office setting, the optometrist do not go to the same place every day and often do not know their schedule very far in advance. Last minute changes are not uncommon. However, Vision To Learn does maintain an accurate records of which optometrists saw which patients and therefore maintains a record of where a particular optometrist provided services on a given day. With those general comments in mind, we have the following specific comments:

Section (b)(2)(C) requires that the owner disclose in BreEZE the information of the licensed optometrist providing services at the specific mobile optometric office location. In Vision To Learn's largest region, Los Angeles County, there may be over a dozen optometrists working different days on a single mobile clinic, and these optometrists may also work on other Vision To Learn mobile clinics in the region. Rather than linking particular optometrists to each mobile optometric office, we would request that each owner provide a master list of all of the optometrists working in a particular region who might provide service on various clinics.

In subsection (b)(F)(ii)-(vi), the regulations require additional information particular to the mobile optometric office, including:

- (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.

As discussed, Vision To Learn may be able to provide some general regional information regarding the areas served, it is not consistently sending a particular office to the same place. However, given the number of offices that are operated by Vision To Learn on a daily basis, it is often hard to provide information specific to each clinic. For example, the optometrists that provide services in the mobile optometric offices do not only work in one office but may change offices depending on the day and location of the service. The dates of operations may be difficult to predict the name and license number for all optometrists and opticians associated with only one office may change. Therefore, it will be very hard to provide accurate and complete information and would require constant updates of information to the Board on the correct information.

Subsection (b)(F)(vii) requires that the mobile optometric office provide an access ramp or lift. Vision To Learn does not have ramps on all offices. Rather, it works closely with the schools where it provides services to ensure that there are alternative methods to serve those with disabilities to ensure accessibility.

Therefore, Vision To Learn would recommend adding the phrase “or written plan to accommodate students with disabilities”.

Section (b)(F)(vii)(b) the mobile optometric office must attest that it has an accessible handwashing facility on the premises. Vision To Learn always makes sure that there is an accessible handwashing facility either on the mobile optometric office or on the site where the mobile optometric office will conduct examinations. Therefore, we recommend that “on the premises” be defined to include accessible facilities on the site where the mobile optometric office will conduct exams.

Subsection (d), the regulations require that each specific ID number of the mobile optometric office be placed on all forms of advertisement, solicitation, or other presentments made to the public that will provide services at a location. Due to the nature of mobile services, this is not always possible well in advance of services, when public notice (such as letters sent home to parents/guardians) would be provided. We would suggest that the more relevant information for a parent/guardian would be the name of the specific optometrist providing services, which could be provided on paperwork sent home following the eye examination. If permit ID numbers are required, we would recommend allowing paperwork to list the permit numbers of all the potential mobile optometric offices that might service the location.

**A-6 § 1585. Fingerprints and Background Checks for Applicants to Register as an Owner and Operator of a Mobile Optometric Office**

Consistent with the comments to section 1583(b)(3)(A) we are concerned that the fingerprint requirement is too broad and is inconsistent with existing law regarding fingerprint requirements. (See page 3.) As such, Vision To Learn encourages the Board to consider limiting the fingerprint requirement to Executive Staff as it is not appropriate or necessary to include the entire board members.

**A-7 § 1586. Owner/ Operator Quarterly Reporting Requirements**

In (b)(2)(E), Vision To Learn’s electronic health records database is not currently able to store a mobile optometric office permit number in relation to each exam day or patient record. Rather, our exam days and patient records are associated with the name of the optometrist providing care. We know which optometrist serves which office and track that broadly, but it would take a significant amount of administrative time to add that information to a quarterly report. It would require a manual process. [Can we add an estimate of the time for that or the amount of visits that we would be reporting every quarter?] Likewise, our database stores the name, but not the registration number, of opticians, so that information would have to be manually entered to every report.

If there were ever a problem or complaint made about a particular visit, Vision To Learn would be able to review our records and determine what office was associated with that particular issue. However, regularly reporting on this information would take significant time and resources that would take away from our ability to serve patients.

**A-8 § 1587. Patient Notification and Records**

Subsection (c) would require mobile optometric offices to collect and store acknowledgement of receipt of the consumer notice. This would not be possible for Vision To Learn, as our services are provided in California using opt-out consent, under Ed Code Section 49455.5. That is, while our program sends home multiple notices to parents/guardians over the course of the program, we do not require parents to sign or return any notices. We recommend that subsection (c) be deleted.

Thank you for the opportunity to comment on the draft regulations. Vision To Learn looks forward to working with the California State Board of Optometry as regulations are

implemented, and helping many more kids in California get the glasses they need to succeed in school, and in life.

Best regards,

Ann Hollister  
CEO, Vision To Learn



**Letter B** April 9, 2024

Gregory Pruden, Executive Director  
California State Board of Optometry  
2450 Del Paso Road, Suite 105  
Sacramento, CA 95834

RE: Mobile optometric office regulation comments

Dear Mr. Pruden,

The California Optometric Association is pleased to comment on the State Board of Optometry's proposed regulations to regulate mobile optometric offices.

**B-1** The initial law expanding mobile optometric offices in California was passed in 2018 to allow non-profit mobile optometric offices that were not affiliated with a college to continue to exist and provide free care to those without insurance or individuals on Medi-Cal that face barriers to access to care. COA supports the board's proposed regulations that implement this law.

**B-2** That being said, we are concerned about the proposed fees. While we want the fees to cover the entire cost of implementing this new program, the \$2,632 fee to obtain a certificate to operate as an owner seems very high and might prohibit smaller, non-profit organizations from operating in California. By way of comparison, the fee for a dentist to own a mobile clinic in California is \$100. We suggest minimizing the reporting requirements to only those mandated by statute. This would reduce the cost to the board thus allowing the fee to be lowered.

Thank you for your consideration of our concerns. Please contact me at (916) 752-1671 or [kshultz@coavision.org](mailto:kshultz@coavision.org) if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Kristine Shultz", is written over a light blue horizontal line.

Kristine Shultz  
Executive Director





California State Board of Optometry

APR 11 2024

Received

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CHIEF EXECUTIVE OFFICER

Faith Lee, CPA  
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Tina Yoo

April 6, 2024

Letter C

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

RE: Proposed Regulations for Mobile Optometric Office Program

Dear Board Members,

On behalf of QueensCare, a non-profit public charity whose mission is to provide quality healthcare to low income residents of Los Angeles County, I am pleased to submit comments and recommendations regarding the proposed regulations referenced above. Since 2000, QueensCare has provided vision screenings and glasses to students of Los Angeles Unified School District (LAUSD) on campuses across Los Angeles. All of the services and supplies that we provide to school children are free to both the student and their family. Since inception QueensCare has screened over a quarter of a million students and provided over 40,000 pairs of prescription glasses. The need is immense and persistent, as these children rarely, if ever have access to optometry services or much needed glasses. We appreciate the opportunity to provide comments on the proposed regulations.

**C-2 §1524. Fees**

The proposed application fee for a certificate to operate as an owner and operator of a mobile optometric office, at \$2,632, is nearly ten times the existing registration fee for an optometrist. Likewise, the proposed application fee for a mobile optometric office permit (\$472) is nearly seven times the existing branch office license fee for a traditional brick-and-mortar office. QueensCare and similar non-profit service providers work tirelessly to minimize the cost of its services to ensure that, to the greatest extent possible, its investment in the program is devoted to helping children. While we understand the Board's need to cover the cost of administration of the program, we respectfully request that it consider that every dollar spent on licensing and fees is one less dollar spent serving a child whose only access to vision care and glasses is through these non-profit programs.

**C-3 §1583. Registration Requirements for Ownership and Operation of Mobile Optometric Offices, etc.**

In (a)(2)(F) the term "owners or officials responsible for the operations of the organization" is unclear as to whether it applies to board members and/or executive staff. We would recommend amending this section to read "A list of all officers and governing board members (collectively, "Officials")..." Then "Officials" would be substituted for "officers or officials" elsewhere in the regulations.

While the intent of (b)(3)(B) is to ensure the safety of the patients and communities being served and QueensCare agrees with the requirement as it pertains to staff, we recommend that it not apply to governing board members. Requiring fingerprints of prospective volunteer board members creates a barrier to service on a non-profit board of directors. Since these volunteers rarely have direct contact with patients, or direct access to books and records, the risk of abuse is limited. In lieu of providing fingerprints, we recommend that the owner and operator be required to attest to the board member's clearance following a thorough background check to include local and national criminal checks and sex offender checks.

Regarding Sec. (c), we recommend increasing the grace period to report changes to the Board from fourteen (14) to forty five (45) days.

In (e) we recommend adding, "Completed applications shall be approved or denied within 60 days of submission." This sets reasonable expectations for the applicant and allows program planning around the time required to process a completed application.

**C-4 § 1584. Certificate to Operate a Mobile Optometric Office, etc.**

Optometrists working in QueensCare's Mobile Vision Program are mission driven to serve children and their community. By and large, they do not have an interest in performing business aspects of the practice. Those who do generally move to a managerial role. Thus, in (b)(3) we recommend that the medical operations of the clinic not include business aspects including hiring and supervising all staff, scheduling patients, and establishing charges, as these duties detract from the optometrist's ability to provide patient care. Rather, we suggest that the section be revised as follows, "The medical operations of the mobile optometric office are directed by a licensed optometrist, including the selection and supervision of patient care staff, the amount of time the optometrist spends with patients, the examination procedures, the treatment provided to patients, and the follow-up care."

To avoid the possibility of conflict in the regulations, we recommend that Sec.(b)(4) reference section 3070.2(c)(3) rather than include an absolute number. This way the regulations would remain in agreement with the code at all times and not require amendment were the code to change.

The Federal Trade Commission "Eyeglass Rule" requires optometrists to provide patients their prescription post-exam whether they ask for it or not. We recommend deleting Sec. (6) or the words, "Upon request by the patient's caregiver or guardian,".

**C-5 § 1584.5. Mobile Optometric Office Permits**

Because of the variation in provider services due to vacations, leaves, reassignment and turnover, we recommend changing Sec (b)(2)(C) and Sec (b)(2)(F)(iv) to require an annual report listing all providers serving in the program, with updates required within forty five (45) days of any change. This permits the mobile optometry office to flex locations and staff, as requested by LAUSD or the community, or required by the program ensuring the uninterrupted delivery of services to patients and the community.

Sec (b)(F)(vii)(a) seems to imply that an access ramp or lift is a required feature for mobile optometric offices. While QueensCare fully supports the provision of accessible services, other methods are available to address these needs, short of a lift or ramp. We suggest the requirement state that the program is required to maintain a policy and procedure for accommodating students / patients with disabilities.

In (b)(F)(vii)(b) we recommend that “on the premises” be defined to include accessible facilities on the site where the mobile optometric office will conduct exams.

**C-6 § 1585. Fingerprints and Background Checks for Applicants to Register as an Owner and Operator of Mobile Optometric Office.**

Ensuring that providers and staff are cleared in a thorough background check process, including fingerprint submission, is appropriate for operating a safe program for patients, staff and the community at large. Requiring fingerprint submission from volunteer governing board members places an undue burden on the applicant when those members rarely encounter patients and staff at the program level, other than at site visits and through board reports. With the challenge of recruiting talented individuals willing to serve on a non-profit board, this requirement will erect a barrier to service. Again, we recommend that the applicant be required to clear each governing board member by performing a background check that includes criminal history at both the local and national level.

**C-7 § 1586. Owner/ Operator Quarterly Reporting Requirements**

QueensCare respectfully requests that the reporting requirements outlined in (b)(2)(E), be provided annually, unless a complaint is received. If this were the case, the regulations would be in line with OSHPD, the federal government and other regulatory bodies’ reporting requirements. Further, while patient complaints are rare in QueensCare’s programs, should they occur, the regulations could be drafted to require a report containing pertinent information within forty five (45) days, consistent with other notice requirements in the regulations.

C-8

**§ 1587. Patient Notification and Records**

QueensCare would not be able to comply with Subsection (c) as LAUSD utilizes an opt-out consent, under Ed Code Section 49455.5. While we send extensive communications to parents about our program, parents are not required to sign or return any notices. We recommend that subsection (c) be deleted.

Being able to see is critical to a child's learning and success in life. QueensCare thanks the California State Board of Optometry for the opportunity to comment on the draft regulations. We are available to answer any questions or provide further information upon request. We appreciate the Board of Optometry's partnership and our common goal of providing safe and accessible services.

Best regards,



Barbara B. Hines  
President & CEO

**Attachment 3**

<b>California State Board of Optometry</b> <b>Mobile Optometric Office Owner and Operator - Business and Professions Code 3070.2</b> <b>(Workload Costs)</b>			
Workload Tasks	Per Application	Minutes Per Application	SSA
Application received, processed & distributed	1	15	15
Cashiering - Input into IT systems & prepare trial balance	1	15	15
Initial review of application & identify deficiencies: verify 501c3 or c4 status, verify OPT in charge, verify officers/officials	1	60	60
Match officers/officials background check with application	1	30	30
Verify all required documents and attachments per Section 1583	1	45	45
Communication - email, phone, etc.	0.5	15	15
Mailing receipts upon request	0.5	15	15
Prepare & issue license	1	30	30
<b>Minutes per Classification</b>			<b>225</b>
<b>Hours by Classification</b>			<b>3.8</b>
<b>*Total Costs:</b>			<b>\$360</b>

SSA - Staff Services Analyst (\$96/hr - includes DCA Distributed Admin)

**California State Board of Optometry  
Mobile Optometric Office Owner and Operator Renewal - Business and Professions Code 3070.2  
(Workload Costs)**

<b>Workload Tasks</b>	<b>Per Application</b>	<b>Minutes Per Application</b>	<b>SSA</b>
Application received, processed & distributed	1	15	15
Cashiering - Input into IT systems & prepare trial balance	1	15	15
Initial review of application & identify deficiencies: verify 501c3 or c4 status, verify OPT in charge, verify officers/officials	1	60	60
Match officers/officials background check with application	1	30	30
Verify all required documents and attachments per Section 1583	1	45	45
Communication - email, phone, etc.	0.5	15	15.0
Mailing receipts upon request	0.5	15	15.0
Prepare & issue license	1	30	30
<b>Minutes per Classification</b>			<b>225</b>
<b>Hours by Classification</b>			<b>3.8</b>
<b>*Total Costs:</b>			<b>\$360</b>

SSA - Staff Services Analyst (\$96/hr - includes DCA Distributed Admin)