

FINAL STATEMENT OF REASONS

1) The Update to the Initial Statement of Reasons

The department made modifications to the originally proposed regulation as follows:

The department changed the name of Section 20.03 from “Vision Tests” to “Vision Screening.”

Subsection (a) was also amended to replace the word ‘test’ with ‘screening.’ The term “screening” more appropriately describes this part of the licensing process, and it should not be mistaken for an actual vision examination.

The initial statement of reasons incorrectly made reference to the visual acuity standards being 20/40 with both eyes tested together, or 20/40 in one eye and at least 20/70 with both eyes tested together. For clarification, the regulatory text correctly requires that provisions in subsection (a)(1) through (a)(3) must all be met during the vision screening. The department received no comments on these standards during the 45-day comment period.

Subsection (b)(2)(B) was amended to remove the requirement that the optometrist’s or ophthalmologist’s letter be prepared on their letterhead. While letterhead from a practice or clinic will be acceptable, the department determined it would be clearer to remove reference to letterhead altogether.

Subsection (b)(2)(B)5. was amended to make clear that the medical license number provided in the optometrist’s or ophthalmologist’s letter must be a California medical license number. The department has determined this amendment is non-substantive and does not change any responsibility of the regulation as originally proposed.

Subsection (b)(2)(B)(5) was amended to add the word “optometry” to subsection. The revision is consistent with a change without regulatory effect in that Business and Professions Code section 3003 defines an optometrist as a person who is licensed to practice optometry in this state under the authority of Chapter 7, Division 2, of the Business and Professions Code. There is no provision requiring an optometrist to have a medical license number.

2) Imposition of Mandate on Local Agencies or School Districts

The department’s regulatory action amending Section 20.03 in Article 2.0, Chapter 1, Division 1, of Title 13, does not impose any mandate on local agencies or school districts and imposes (1) no cost or savings to any state agency, (2) no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, (3) no other discretionary cost or savings to local agencies, and (4) no cost or savings in federal funding to the state. No studies or data were relied upon to make this determination.

3) Summary of Comments Received during the 45-day comment period and Department Response

The proposal was noticed on August 16, 2024, and made available to the public from August 16, 2024 through September 30, 2024. The department received two written comments during the 45-day comment period.

The first comment received was from Kevin Hanson who asked if there is anything that can be done to afford driver renewal applicants with certain vision conditions that are static, a less stringent renewal process. The commenter also notes that a drive test every two years along with associated visits to the eye doctor requires too much time off form work and is economically onerous.

Department's Response: The optometrist or ophthalmologist informs the department of the frequency with which future vision examinations are required to be provided by the applicant. The form Report of Vision Examination, form DL 62, allows a physician to provide an indication of whether the applicant should submit a new vision examination report every year, every two years, every five years, or on a term to be determined by the physician. The department relies on this report when contacting an applicant. Many times, the department will require an applicant to take a driving test to ensure their vision condition is not impacting their ability to safely operate a vehicle. While the department recognizes that it may be a burden for the applicant to have to submit to a driving test, potentially, every two years, the department is tasked with ensuring that all licensed drivers are able safely drive despite their vision condition.

The second comment received by the department was from S. Alecia Sanchez, representing the California Medical Association (CMA), who provided the following comments:

The CMA provided the following comments related to Vision Screening Terminology.

- Recommended the department remove references to “vision tests” or “test” and replace with “vision screening” or “screening,” to avoid potential confusion as the initial testing is a visual acuity screening and not a complete eye examination.

Department's Response: The department agrees with the comment and modified the originally proposed regulatory text to remove the word “test” and replace with “screening.” The modifications also include the amended title of Section 20.03, which was originally proposed as “Vision Tests” and was modified to “Vision Screenings.”

The CMA provided the following comments related to Practitioner Licensure Terminology

- Recommended that references to “ophthalmologist” should be changed to “physician or surgeon,” as neither the Medical Board of California, nor the Osteopathic Medical Board of California confirms specialty designation, it would be unclear how the department will verify the specialty designation. The CMA also commented that, because the proposed regulation establishes a screening process and a more comprehensive examination

process, physicians across multiple specialties would be able to perform either the screening or the full examination, thereby expanding access to applicants.

- Amending subsection (b)(2)(B)(5) to replace “ophthalmologist” with “physician and surgeon” and adding “California optometry” when referencing the medical license number as the department should make clear that practitioners submitting information to the department are to be licensed in California.

Department’s Response: The department agrees in part and rejects in part. When establishing vision standards, the department is governed by the requirements of Vehicle Code section 12805, requiring the vision examination to be verified by an optometrist or ophthalmologist. To ensure consistency with the Vehicle Code, the department has determined it necessary to reference only optometrists and ophthalmologists in Section 20.03.

The department agrees that clarification should be added to subsection (b)(2)(B)(5) and has added “California” to ensure the medical license number provided was issued in California.

The CMA provided the following comment related to the letterhead requirement in subsection (b)(2)(B)

- Recommends removing the requirement that the letter be on letterhead as many physicians work in practices with multiple clinicians and may have access to letterhead of the practice rather than the individual practice.

Department’s Response: The department agrees with the CMA and has removed the word “letterhead” from the originally proposed text and will now require the letter to be from the optometrist or ophthalmologist.

The CMA provided the following comments related to the Report of Vision Examination, form DL 62

- Notes the form currently has a field for an M.D. or O.D. license number, which excludes osteopathic physicians and surgeons. The CMA goes on to explain that Osteopathic physicians are licensed by the Osteopathic Medical board as physicians and surgeons and California law establishes that holders of M.D. degrees and D.O. degrees be accorded equal professional status and privileges as licensed physicians and surgeons. Recommends the department amend the signature section of the form DL 62 to add “D.O.”

Department’s Response: The department rejects this recommendation. The vision standards established in Vehicle Code section 12805 references only optometrists and ophthalmologists. To ensure consistency with the requirements of the Vehicle Code, the department will not amend the form DL 62 to add “D.O.”

4) Summary of Comments Received during the 15-day comment period and Department Response

The department modified the originally proposed regulatory text and provided the modified text, along with an addendum to the initial statement of reasons, to the public and to the parties who provided comment during the 45-day comment period. The 15-day comment period began on October 9, 2024 and ended on October 24, 2024 with the department having received one comment.

- The department received a comment from Michael Urquhart who referenced a letter originally submitted to the department on September 21, 2024, during the 45-day comment period, however, the department did not receive a letter from Mr. Urquhart prior to the letter received on October 18, 2024. While much of the letter received by Mr. Urquhart is unrelated to the originally proposed text or the modified text, he does argue that a significant cost savings exists by removing vision testing. He goes on to reference sheriff deputies, so it's not clear where he believes the costs savings will be realized.

Department's Response: As already stated, the comments provided do not address the originally proposed text or the modified text. The department is required by statute to require every driver's license applicant to meet vision standards by meeting screening provided by the department or by an optometrist or ophthalmologist.

The department received a comment from S. Alecia Sanchez, representing the California Medical Association (CMA), who provided the following comments:

- Reiterated the need to add "optometry" before the reference to "medical license number" in subsection (b)(2)(B)(5), as requiring an optometrist to provide a medical license number is inconsistent with the state's licensure of optometrists.

Department's Response: The department accepts this comment and has added the word "optometry" to subsection (b)(2)(B)(5). The department is making this revision outside of the comment period as it is consistent with a change without regulatory effect in that Business and Professions Code section 3003 defines an optometrist as a person who is licensed to practice optometry in this state under the authority of Chapter 7, Division 2, of the Business and Professions Code.

- Reiterated the need to add "D.O." to the form DL 62 to remain consistent with the regulation and the state physician licensure laws. The CMA explains that a medical license can be issued to someone with an M.D. license or a D.O. license. In considering this comment, the department has determined that reference to M.D. is currently sufficient and clear to both ophthalmologists, who have a medical license, and optometrists.

5) Documents Incorporated by Reference

The following document was incorporated by reference:

- Report of Vision Examination, form DL 62 (Rev. 7/2024)

This form is not published in the California Code of Regulations because it would be unduly expensive, impractical and cumbersome to do so; however, the document was made available to interested parties during the course of this rulemaking by contacting the department representative that was identified in the Notice of Proposed Action. During the 45-day notice, one request for the form was made and the form was provided to the requester through email.

6) Determination of Alternatives

The department has determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provisions of law.