The Agency (Office) adopts amendments to Chapter 1, §§1.1 – 1.3, concerning Texas Register. The Office proposes these amendments incorporate new filing requirements for the Texas Register Liaison Center.

BACKGROUND INFORMATION AND JUSTIFICATION

SB 820, adopted by the 88th Legislature, Regular Session, establishes a required occupational registration for VSOs in Chapter 74 of the Texas Business and Commerce Code. The bill took effect on September 1, 2023.

As enacted by SB 820, Texas Business and Commerce Code §74.002 requires a VSO (as defined in Texas Business and Commerce Code §74.001(3)) to register annually with the Office. Texas Business and Commerce Code §74.004(a) identifies the information that must be included in the VSO’s registration filed with the Office. Texas Business and Commerce Code §74.005(c) directs a VSO to file a corrected registration semiannually as necessary. Texas Business and Commerce Code §74.004(b) specifies that a registration and each corrected registration must be accompanied by a fee in an amount set by the Office.

The purpose of these new rules under Chapter 107 (Registration of Vision Support Organizations) is to provide information regarding the procedures for VSO registration with the Office, in accordance with SB 820.

SECTION-BY-SECTION SUMMARY

Adopted §1.1 defines terms used within Chapter 1.

Adopted §1.2 specifies the procedure for a VSO to initially register with the Office, or to renew an existing registration, as required by Texas Business and Commerce Code §§74.002 and 74.004.

Adopted §1.3 provides that a registration of a VSO expires on December 31 of each year and must be renewed annually. The section also designates the time period for a registered VSO to submit a renewal registration and a new VSO to register after executing a vision support agreement (as defined in new §107.1).

FISCAL NOTE

SB 820 requires a VSO subject to Chapter 74 of the Texas Business and Commerce Code to file with the Office an annual registration and a corrected registration semiannually as necessary, each of which must be accompanied by a fee in an amount set by the Office. The adopted new rules do not impose any additional costs on a VSO seeking to register with the Office.

Texas Business and Commerce Code §74.004(b) states that a registration and each corrected registration must be accompanied by a fee set by the Office in an amount necessary to recover the costs of administering of Chapter 74 of the Texas Business and Commerce Code. The adopted rules set the fee at $150 for initial and renewal annual registrations, and $50 for statements of correction. Such fees are comparable to those for similar occupational registrations filed with the Office, particularly dental support organizations under Chapter 73 of the Texas Business and Commerce Code (after which SB 820 was closely modeled).

Christopher Burnett, Director of the Office’s Business & Public Filings Division, has determined that for each year of the first five years that the adopted new sections will be in effect, there will be no fiscal implications for state or local governments as a result of enforcing or administering the adopted rules. In addition, the Office does not anticipate that enforcing or administering the adopted rules will result in any reductions in costs or in any additional costs to the Office, the state, or local governments. The Office also does not anticipate that there will be any loss or increase in revenue to the Office, the state, or local governments as a result of enforcing or administering the adopted rules.

PUBLIC BENEFIT

Agency Representative, has determined that for each year of the first five years that the adopted new sections will be in effect, the public benefit expected as a result of adopting the adopted new rules will be clarity with respect to the Office’s application of Texas Business and Commerce Code §§74.002, 74.004, and 74.005. The adopted new rules will benefit the public by providing information regarding the registration of VSOs with the Office in accordance with Chapter 74 of the Texas Business and Commerce Code.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL ECONOMY

There are no anticipated economic costs to persons required to comply with the adopted new rules. There is a cost imposed on a VSO seeking to register with the Office, or submitting a renewal or correction related to an existing registration, pursuant to Texas Business and Commerce Code §74.004. However, the Office’s adopted new rules do not impose any additional costs on such entities. There is no effect on local economy for the first five years that the adopted new rules will be in effect; therefore, no local employment impact statement is required under Texas Government Code §§2001.022 and 2001.024(a)(6).

FISCAL IMPACT ON SMALL BUSINESSES, MICRO-BUSINESSES, AND RURAL COMMUNITIES

The adopted new rules will have no direct adverse economic impact on small businesses, micro-businesses, or rural communities. Accordingly, the preparation of an economic impact statement and a regulatory flexibility analysis, as specified in Texas Government Code §2006.002, is not required.

GOVERNMENT GROWTH IMPACT STATEMENT

Pursuant to Texas Government Code §2001.0221, the Office provides the following government growth impact statement for the adopted rules. For each year of the first five years that the adopted new rules will be in effect, the Office has determined the following:

(1) the adopted rules will not create or eliminate a government program;

(2) implementation of the adopted rules will not require the creation of new employee positions or the elimination of existing employee positions;

(3) implementation of the adopted rules will not require an increase or decrease in future legislative appropriations to the agency;

(4) the adopted rules will not require an increase or decrease in fees paid to the agency;

(5) the adopted rules are new rules and therefore create new regulations;

(6) the adopted rules will not expand, limit, or repeal an existing regulation;

(7) the adopted rules will not increase or decrease the number of individuals subject to the rules’ applicability; and

(8) the adopted rules will not positively or adversely affect the state’s economy.

REQUEST FOR PUBLIC COMMENTS

Comments or questions on the adopted new rules may be submitted in writing and directed to Agency Representative, Agency Address, or by e-mail. Comments will be accepted for thirty (30) days from the date of publication of the adopted rules in the *Texas Register*. Comments should be organized in a manner consistent with the organization of the adopted new rules.

STATUTORY AUTHORITY

The adopted new rules are authorized by Texas Government Code §2001.004(1) and Texas Business and Commerce Code §74.004(b). Texas Government Code §2001.004(1) requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures. Texas Business and Commerce Code §74.004(b) directs the Office to set the applicable VSO filing fees.

CROSS REFERENCE TO STATUTE

The adopted new rules implement Chapter 74 of the Texas Business and Commerce Code. No other statute, code, or article is affected by the adopted rules.

STATUTORY AUTHORITY

The adopted new rules are authorized by Texas Government Code §2001.004(1) and Texas Business and Commerce Code §74.004(b). Texas Government Code §2001.004(1) requires a state agency to adopt rules of practice stating the nature and requirements of formal and informal procedures. Texas Business and Commerce Code §74.004(b) directs the Office to set the applicable VSO filing fees.

<rule>

§1.1. Definitions.

Words and terms defined in Chapter 74 of the Business and Commerce Code shall have the same meaning in this chapter. In addition, the following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Non-optometrist owner--A person, including a corporation, association, general partnership, limited partnership, limited liability company, limited liability partnership, other legal entity, or sole proprietorship, who is not a licensed optometrist but maintains 5% or more ownership in a vision support organization.

(2) Professional entity--A professional corporation, professional limited liability company, professional association, general partnership that provides a professional service, or limited partnership that provides a professional service.

(3) Secretary--The Texas Secretary of State.

(4) Vision support agreement--One or more agreements under which a vision support organization provides two or more business support services to an optometrist.

§1.2. Registration and Renewal of Vision Support Organizations.

(a) A complete initial registration or renewal registration is comprised of:

(1) A completed registration form that is signed by a person authorized to act by or on behalf of the vision support organization, in the form promulgated by the secretary (See Form 4101); and

(2) Payment of the filing fee stated in §107.5 of this chapter (relating to Filing Fees).

(b) A registration statement or renewal application must comply with Business and Commerce Code §74.004, and also provide:

(1) For the vision support organization:

(A) The legal name;

(B) The business address and mailing address, if different; and

(C) A contact name, email address, and phone number.

(2) For each optometrist and each entity that employs or contracts with an optometrist to provide eye care services in this state with which the vision support organization has entered into an agreement to provide two or more business support services:

(A) The legal name and business address of each optometrist and each such entity, as applicable;

(B) If the optometrist provides eye care services through a professional entity, the legal name of the professional entity; and

(C) A disclosure of all business support services provided to each optometrist or each entity that employs or contracts with an optometrist to provide eye care services.

(3) For each optometrist who owns any portion of the vision support organization and for each non-optometrist owner who owns 5% or more of the vision support organization:

(A) The legal name and business address of the owner; and

(B) Whether the owner is an optometrist or a non-optometrist owner.

§1.3. Timing of Registration.

(a) Registrations will expire annually on December 31 of each year.

(b) A vision support organization seeking to renew an existing registration must file a renewal registration. Renewals may be submitted from ninety (90) days prior to expiration until January 31 of the year for which the next registration will be effective by submitting a completed registration form and paying the filing fee, except as provided in subsection (c) of this section.

(c) In the event a vision support organization is required to register under Chapter 74 of the Business and Commerce Code after January 31, the vision support organization must file an initial registration within ninety (90) days after the date of execution of a vision support agreement.

(d) The initial registration for a vision support organization that entered into a vision support agreement prior to February 1, 2024 must be filed not later than January 31, 2025.

(e) The initial registration for a vision support organization that first enters into a vision support agreement on or after February 1, 2024 must be filed not later than the ninetieth (90th) day after the date the agreement is executed.