MEMBERS OF THE BOARD
Madhu Chawla, OD, President
Cyd Brandvein, Vice President
Rachel Michelin, Secretary
Donna Burke
Glenn Kawaguchi, OD
Debra McIntyre, OD
Mark Morodomi
Maria Salazar Sperber
David Turetsky, OD
Lillian Wang, OD

CALIFORNIA STATE BOARD OF OPTOMETRY

QUARTERLY BOARD MEETING AGENDA

Friday, May 27, 2016
10:00 A.M. – 5:00 P.M.
(or until conclusion of business)

Elihu Harris Building
1515 Clay Street, Room 11
Oakland, CA 94612

ORDER OF ITEMS SUBJECT TO CHANGE

While the Board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations of resources.

FULL BOARD OPEN SESSION

1. Call to Order/Roll Call and Establishment of a Quorum

2. Public Comment for Items Not on the Agenda
   Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)]

3. President's Report
   A. Welcome and Introductions
   B. 2016-2017 Board Meeting Dates and Locations
   C. Committee Appointments

4. Approval of Board Meeting Minutes
   A. February 19, 2016
   B. May 13, 2016

5. Department of Consumer Affairs Report

6. Executive Officer's Report
   A. BreEZe
   B. Budget
   C. Personnel
   D. Examination and Licensing Programs
   E. Enforcement Program
   F. Strategic Plan

7. Update, Presentation, and Possible Action on the Sunset Review Process/New Sunset Issues

8. Update on RDO Advisory Committee Application and Creation of RDO Appointments Committee

9. Update from the Public Relations and Outreach Committee Regarding the Board's Online Refractions Educational Campaign

10. Discussion and Possible Action on 2016 Legislation Impacting Healing Arts Boards and the Practice of Optometry
    A. AB 12 (Cooley) State Government: Administrative Regulations: Review
    B. AB 2744 (Gordon) Healing Arts: Referrals
    C. SB 1039 (Hill) Professions and Vocations
    D. SB 1195 (Hill) Professions and Vocations: Board Actions: Competitive Impact
    E. SB 349 (Bates) Optometry: Mobile Optometric Facilities
    F. SB 402 (Mitchell) Pupil Health: Vision Examinations
    G. SB 482 (Lara) Controlled Substances: CURES Database
    H. SB 622 (Hernandez): Optometry
    I. TB 201 Registered Dispensing Opticians Program Move

11. Discussion and Possible Action on Proposed Amendment to Title 16, CCR § 1523 Licensure and Examination Requirements – Update License Applications

12. Discussion and Possible Action on Recommendations From the Practice Education Committee to Amend the Continuing Education Course Approval Request Form

13. Future Agenda Items

14. Petition for Reduction of Penalty and Early Termination of Probation (3:00 pm)

    A. Dr. Richard Armstrong, OD, License No. 9196

FULL BOARD CLOSED SESSION

15. Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Deliberation on Disciplinary Matters and the Above Petition

FULL BOARD OPEN SESSION

16. Adjournment

The mission of the California State Board of Optometry is to protect the health and safety of California consumers through licensing, education, and regulation of the practice of Optometry

Meetings of the California State Board of Optometry are open to the public except when specifically noticed otherwise in accordance with the open meeting act. Public comments will be taken on agenda items at the time the specific item is raised. Time limitations will be determined by the Chairperson. The Board may take action on any item listed on the agenda, unless listed as informational only. Agenda items may be taken out of order to accommodate speakers and to maintain a quorum.

NOTICE: The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Robert Stephanopoulos at (916) 575-7185, emailing a written request to Robert.Stephanopoulos@dca.ca.gov or mailing a written request to that person at the California State Board of Optometry, 2450 Del Paso Road, Suite 105, Sacramento, CA 95834. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** May 27, 2016

From: Madhu Chawla, OD
Board President **Telephone:** (916) 575-7170

Subject: **Agenda Item 1 – Call to Order and Roll Call/ Establishment of Quorum**

Dr. Madhu Chawla, O.D., Board President, will call the meeting to order and call roll to establish a quorum of the Board.

Madhu Chawla, O.D., President, Professional Member

Cyd Brandvein, Vice President, Public Member

Rachel Michelin, Secretary, Public Member

Donna Burke, Public Member

Glenn Kawaguchi, O.D., Professional Member

Debra McIntyre, O.D., Professional Member

Mark Morodomi, Public Member

Maria Salazar Sperber, Public Member

David Turetsky, O.D., Professional Member

Lillian Wang, O.D., Professional Member

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** May 27, 2016

From: Madhu Chawla, O.D.
Board President **Telephone:** (916) 575-7170

Subject: **Agenda Item 2 – Public Comment for Items Not on the Agenda**

The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)].

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** May 27, 2016

From: Madhu Chawla, O.D.
Board President **Telephone:** (916) 575-7170

Subject: Agenda Item 3 - President's Report

The Board's Mission is to protect the health and safety of California consumers through licensing, education, and regulation of the practice of Optometry.

A. Welcome and Introductions

Introductions of Board staff and members of the public (voluntary)

B. 2016 – 2017 Board Meeting Dates

The quarterly board meeting dates are scheduled for the following:

- August 26, 2016 – Los Angeles, CA
- November ~~18~~4, 2016 – Irvine, CA
    - This meeting date has changed based on various requests to not have a meeting scheduled so close to the holidays.

- January 27, 2017 – Southern California
- April 21, 2017 – Oakland
- August 4, 2017 – Sacramento
- November 3, 2017 – Southern California

C. Committee Structures

Consumer Protection Committee
- Rachel Michelin - Chair
- Mark Morodomi
- Dr. McIntyre

Practice and Education Committee
- Dr. Chawla - Chair
- Cyd Brandvein
- Dr. Wang

Public Relations and Outreach Committee

- Donna Burke – Chair
- Dr. Turetsky
- Dr. Kawaguchi – added to assist with online refraction outreach

Legislation and Regulation Committee

- Rachel Michelin - Chair
- Dr. Chawla
- Dr. Wang

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** May 27, 2016

From: Rachel Michelin
Board Secretary **Telephone:** (916) 575-7170

Subject: **Agenda Item 4 – Approval of Board Meeting Minutes**

A. February 19, 2016
B. May 13, 2016

Board of Optometry
2450 Del Paso Road, Suite 105, Sacramento, CA 95834
P: (916) 575-7170 F: (916) 575-7292 www.optometry.ca.gov

BOARD MEETING ACTION MINUTES **DRAFT**
February 19, 2016
Ronald Reagan State Building
Auditorium
300 S. Spring St.
Los Angeles, CA 90013

Members Present		**Staff Present**
Cyd Brandvein, Vice-President, Public Member		Jessica Sieferman, Executive Officer
Rachel Michelin, Secretary, Public Member		Robert Stephanopoulos, Assistant Executive Officer
Donna Burke, Public Member		Kurt Heppler, Legal Counsel
Glenn Kawaguchi, O.D., Professional Member		
William Kysella, Public Member		
Mark Morodomi, Public Member		
David Turetsky, O.D., Professional Member		
Lillian Wang, O.D., Professional Member		
Excused Absences		
Madhu Chawla, O.D. President, Professional Member		**Guests**
Alejandro Arredondo, Professional Member		On File

Friday, February 19, 2016
9:00 a.m.
FULL BOARD OPEN SESSION

1. Call to Order/Roll Call and Establishment of a Quorum

In Board President, Dr. Madhu Chawla's absence, Vice President, Cyd Brandvein called the meeting to order. Roll was called, and a quorum was established.

Donna Burke and Mark Morodomi arrived at later times during the meeting.

2. Public Comment for Items Not on the Agenda

Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting [Government Code Sections 11125, 11125.7(a)]

No action was taken on this agenda item.

3. President's Report

A. Welcome and Introductions
B. 2016 Board Meeting Dates and Locations

No action was taken on this agenda item.

4. Approval of the Board Meeting Minutes
A. November 20, 2015

Lillian Wang moved to approve the November 20, 2015 Board Meeting Minutes. William Kysella seconded. The Board voted 5-Aye, 0-No, 1-Abstain to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				X	
Ms. Brandvein	X				
Ms. Michelin	X				
Dr. Arredondo				X	
Ms. Burke				Not present	
Dr. Kawaguchi	X				
Mr. Kysella	X				
Mr. Morodomi				Not present	
Dr. Turetsky			X		
Dr. Wang	X				

5. Department of Consumer Affairs Report

Jonathan Burke with Department of Consumer affairs reported on the transition to the new BreEZe system, Form 700 (conflict of interest) new process, the Little Hoover Commission, new staff, and required board member training.

6. Executive Officer's Report
A. BreEZe
B. Budget
C. Personnel
D. Examination and Licensing Programs
E. Enforcement Program
F. Registered Dispensing Optician (RDO) Program

Taylor Shick, Budget Officer for DCA provided an overview of the Board's budget and the RDO program.

Kathryn Scott with Lenscrafters and EyeExam spoke to the Board about RDO program fees and requested that all increases be done according to cost rather than an arbitrary increase across the board.

No action was taken on this agenda item.

7. Consideration and Approval of RDO Advisory Committee Application and Creation of RDO Appointments Committee

William Kysella moved that the Committee develop the criteria and present the finalists at the next practical meeting. Rachel Michelin seconded. The Board voted unanimously (8-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal

Dr. Chawla				**X**	
Ms. Brandvein	**X**				
Ms. Michelin	**X**				
Dr. Arredondo				**X**	
Ms. Burke	**X**				
Dr. Kawaguchi	**X**				
Mr. Kysella	**X**				
Mr. Morodomi	**X**				
Dr. Turetsky	**X**				
Dr. Wang	**X**				

8. Presentation by Capital Accounting Partners, LLC Regarding the Registered Dispensing Optician Program Fee Audit Results

No action was taken on this item. Agenda Item 9E was taken immediately following this item.

9. Discussion and Possible Action on Legislation Impacting the Practice of Optometry

A. SB 402 (Mitchell) Pupil health: vision examinations

B. SB 496 (Nguyen) Optometry: graduates of a foreign university: examinations and licensure
A foreign graduate spoke to the Board regarding her immigration from Syria with her family; her struggle regarding obtaining a license in California, and a request for the Board to create a pathway for her in obtaining an optometry license.

C. SB 349 (Bates) Optometry: mobile optometric facilities

Rachel Michelin moved for the Board to take the action suggested and commence a meeting of the Legislation and Regulations Committee quickly to tackle this issue. Lillian Wang seconded. The Board voted unanimously (8-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				**X**	
Ms. Brandvein	**X**				
Ms. Michelin	**X**				
Dr. Arredondo				**X**	
Ms. Burke	**X**				
Dr. Kawaguchi	**X**				
Mr. Kysella	**X**				
Mr. Morodomi	**X**				
Dr. Turetsky	**X**				
Dr. Wang	**X**				

D. SB 622 (Hernandez): Optometry

No action was taken on this issue.

E. TB 201 Registered Dispensing Opticians Program Move

William Kysella moved to direct the Executive Officer to work with the Administration on providing a viable and defensible ceiling and floor for the sustainable operation of the RDO program allowing flexibility to make changes to the fees by regulation. Cyd Brandvein seconded. The Board voted 1-abstention, 7-Ayes to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				X	
Ms. Brandvein	X				
Ms. Michelin			X		
Dr. Arredondo				X	
Ms. Burke	X				
Dr. Kawaguchi	X				
Mr. Kysella	X				
Mr. Morodomi	X				
Dr. Turetsky	X				
Dr. Wang	X				

Lillian Wang moved to direct staff to take the language of the Draft Inspection Authority, add it to the language of the Trailer Bill, Issue 201 language and submit the packet to the Governor's Office. Rachel Michelin seconded. The Board voted: 7-Aye, 1-No and the motion carried.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				X	
Ms. Brandvein	X				
Ms. Michelin	X				
Dr. Arredondo				X	
Ms. Burke	X				
Dr. Kawaguchi		X			
Mr. Kysella	X				
Mr. Morodomi	X				
Dr. Turetsky	X				
Dr. Wang	X				

10. Discussion and Possible Action on Regulations Impacting the Practice of Optometry and

A. Proposed Revisions to California Code of Regulations (CCR) § 1582 Unprofessional Conduct Amendment to CCR § 1516 Application Review and Criteria for Rehabilitation Following Disapproval

Legal Counsel, Kurt Heppler provided an update and his suggestion on CCR § 1582.

William Kysella moved to approve both the addendum to the ISR and the revised text; to authorize the Executive Officer to send it out for 15 days, and in the absence of any adverse comments to complete the rulemaking packet; additionally, to authorize the Executive Officer to request an extension should one become necessary. Rachel Michelin seconded. The Board voted unanimously (8-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				X	
Ms. Brandvein	X				
Ms. Michelin	X				
Dr. Arredondo				X	
Ms. Burke	X				
Dr. Kawaguchi	X				
Mr. Kysella	X				
Mr. Morodomi	X				
Dr. Turetsky	X				
Dr. Wang	X				

B. Proposed Amendment to CCR § 1399.260 RDO Fees, § 1399.261 Contact Lens Dispenser Fees, § 1399.263 Spectacle Lens Dispenser Fees

Lillian Wang moved to direct staff to proceed with noticing the rulemaking documents for the fee increase. Mark Morodomi seconded. The Board voted unanimously (8-0) and the motion carried.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				X	
Ms. Brandvein	X				
Ms. Michelin	X				
Dr. Arredondo				X	
Ms. Burke	X				
Dr. Kawaguchi	X				
Mr. Kysella	X				
Mr. Morodomi	X				
Dr. Turetsky	X				
Dr. Wang	X				

C. Proposed Addition to CCR § 1514.1 Co-Location Reporting Requirement and Form

No action was taken on this item.

D. Proposed Amendment to CCR § 1536 Continuing Optometric Education; Purpose and Requirements – Update Request for Continuing Optometric Exemption/Extension Form, Update CE Course Approval Form and Incorporate Forms by Reference

Donna Burke moved to approve the revised form and proposed amendments to CCR § 1536, and to direct staff to prepare the rulemaking packet, and set the matter for public hearing. Dave Turetsky seconded. The Board voted unanimously (8-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				X	
Ms. Brandvein	X				
Ms. Michelin	X				

Dr. Arredondo				**X**	
Ms. Burke	**X**				
Dr. Kawaguchi	**X**				
Mr. Kysella	**X**				
Mr. Morodomi	**X**				
Dr. Turetsky	**X**				
Dr. Wang	**X**				

E. Proposed Amendment to CCR § 1502 Delegation of Certain Functions to include Continuing Education (CE) Course Approval, CE Extension/Exemption Approvals, Accepting Default Decisions and Stipulated Surrenders to Executive Officer

Dr. Susy Yu, O.D., presented a report/overview on ARBO (Association of Regulatory Boards in Optometry) and the Council on Optometric Practitioner Education (COPE) created by ARBO to accredit continuing education on behalf of optometric licensing boards.

For subsection (b):

William Kysella moved to accept staff's recommendations, however to strike "approving continuing education courses and course providers and" in subsection (b); and to hold separate discussions of (a) and (b), with subsection (b) discussed first. Rachel Michelin seconded. The Board voted unanimously (8-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				**X**	
Ms. Brandvein	**X**				
Ms. Michelin	**X**				
Dr. Arredondo				**X**	
Ms. Burke	**X**				
Dr. Kawaguchi	**X**				
Mr. Kysella	**X**				
Mr. Morodomi	**X**				
Dr. Turetsky	**X**				
Dr. Wang	**X**				

For subsection (a):

Mark Morodomi moved to approve the recommended language with an additional sentence at the end stating "provided the Board is given copies of completed decisions and agreements at the next scheduled Board meeting." Lillian Wang seconded. The Board voted unanimously (8-0) and the motion carried.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				**X**	
Ms. Brandvein	**X**				
Ms. Michelin	**X**				
Dr. Arredondo				**X**	

Ms. Burke	**X**				
Dr. Kawaguchi	**X**				
Mr. Kysella	**X**				
Mr. Morodomi	**X**				
Dr. Turetsky	**X**				
Dr. Wang	**X**				

F. Proposed Amendment to CCR § 1523 Licensure Examination Requirements to Update Form 39A-1. Rev. 7-09, Form OLA-2, Rev. 11/07, and Form LBC-4, rev. 2/07

No action was taken on this item.

G. Proposed Amendment to CCR § 1530.1 Qualifications for Foreign Graduates; Revision of Authorization (Sponsorship) Form

William Kysella moved to adopt the revised form, and to direct staff to ensure that the conviction statement is consistent with state and federal law. Lillian Wang seconded. The Board voted unanimously (8-0) and the motion carried.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				**X**	
Ms. Brandvein	**X**				
Ms. Michelin	**X**				
Dr. Arredondo				**X**	
Ms. Burke	**X**				
Dr. Kawaguchi	**X**				
Mr. Kysella	**X**				
Mr. Morodomi	**X**				
Dr. Turetsky	**X**				
Dr. Wang	**X**				

H. Proposed Addition of CCR Section 1523.5; Abandonment of Applications

Mark Morodomi moved to provide authority for staff to abandon applications that have not resulted in issuance within one year. William Kysella seconded. The Board voted unanimously (8-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				**X**	
Ms. Brandvein	**X**				
Ms. Michelin	**X**				
Dr. Arredondo				**X**	
Ms. Burke	**X**				
Dr. Kawaguchi	**X**				
Mr. Kysella	**X**				
Mr. Morodomi	**X**				
Dr. Turetsky	**X**				

Dr. Wang	**X**				

11. Review, Consideration, and Possible Action on Public Relations and Outreach Committee's Recommendations Regarding Online Refraction and the Laws Governing Optometry in the State of California

Ms. Burke provided an overview.

Dr. Pam Miller, O.D. addressed the Board on behalf of the Optometric Society, regarding the standard of care and the question of whether the standard of care is being violated by online refractions.

Lillian Wang moved to direct staff to work with communications and outreach, and bring recommendations back to the Board. Rachel Michelin seconded. The Board voted unanimously (8-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				**X**	
Ms. Brandvein	**X**				
Ms. Michelin	**X**				
Dr. Arredondo				**X**	
Ms. Burke	**X**				
Dr. Kawaguchi	**X**				
Mr. Kysella	**X**				
Mr. Morodomi	**X**				
Dr. Turetsky	**X**				
Dr. Wang	**X**				

12. Discussion and Possible Action Regarding Minimum Certification Requirements for All Optometrists to Practice in California

Dr. Miller shared with the Board, her perspective on the certification issue.

Rachel Michelin moved to approve the option of legislation; to direct staff to research the regulatory process, and then delegate to the Public Relations Committee to find a way of reaching impacted optometrists and informing them that this change is forthcoming. Dave Turetsky seconded. The Board voted 5-Aye; 3-Abstain, and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				**X**	
Ms. Brandvein			**X**		
Ms. Michelin	**X**				
Dr. Arredondo				**X**	
Ms. Burke	**X**				
Dr. Kawaguchi			**X**		
Mr. Kysella	**X**				
Mr. Morodomi			**X**		

Dr. Turetsky	**X**				
Dr. Wang	**X**				

13. Update and Possible Action on Concerns Raised Related to the National Board of Examiners in Optometry (NBEO) and National Board Examinations (Parts I, II, and III)

No action was taken on this agenda item.

14. Presentation by the Association of Regulatory Board of Optometry (ARBO) Regarding Current ARBO Activities and the Council on Optometric Practitioner Education (COPE) Accreditation Standard Changes

A representative of the Association of Regulatory Boards of Optometry provided a presentation on current activities and COPE accreditation changes.

15. Future Agenda Items

No action was taken on this agenda item.

FULL BOARD CLOSED SESSION

16. Pursuant to Government Code Section 11126 (c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters

FULL BOARD OPEN SESSION

17. Adjournment

Rachel Michelin moved to adjourn the meeting. William Kysella seconded. The Board voted unanimously (8-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla				**X**	
Ms. Brandvein	**X**				
Ms. Michelin	**X**				
Dr. Arredondo				**X**	
Ms. Burke	**X**				
Dr. Kawaguchi	**X**				
Mr. Kysella	**X**				
Mr. Morodomi	**X**				
Dr. Turetsky	**X**				
Dr. Wang	**X**				

Board of Optometry
2450 Del Paso Road, Suite 105, Sacramento, CA 95834
P: (916) 575-7170 F: (916) 575-7292 www.optometry.ca.gov

DRAFT

BOARD SPECIAL MEETING ACTION MINUTES
May 13, 2016

Main Location: Sequoia Room, 2420 Del Paso Road, Sacramento, CA 95834

TELECONFERENCE LOCATIONS:

Nugget Markets
Second Floor
4500 Post St.
El Dorado Hills, CA 95762

Kaiser Permanente
Department of Optometry, #1761
5601 De Soto Avenue
Woodland Hills, CA 91367

Cafe Europa
64 Moraga Way
Orinda, CA 94563

Panera Bread
1286 Auto Park Way
Escondido, CA 92029

Century 21 Lad
9047 Soquel Dr
Aptos, CA 95003

3301 East Main St., # 1006
Ventura, CA 93003

Members Present		**Staff Present**
Madhu Chawla, O.D. President, Professional Member		Jessica Sieferman, Executive Officer
Rachel Michelin, Secretary, Public Member		Robert Stephanopoulos, Assistant Executive Officer
Donna Burke, Public Member		Kurt Heppler, Legal Counsel
Glenn Kawaguchi, O.D., Professional Member		
Debra McIntyre, O.D., Professional Member		
Maria Salazar Sperber, Public Member		
David Turetsky, O.D., Professional Member		
Lillian Wang, O.D., Professional Member		
Excused Absences		
Cyd Brandvein, Vice-President, Public Member		**Guests**
Mark Morodomi, Public Member		On File

5:05 p.m.
FULL BOARD OPEN SESSION

1. **Call to Order/Roll Call and Establishment of a Quorum**

   Dr. Madhu Chawla, Board President, called the meeting to order. Roll was called, and a quorum was established.

2. **Finding of Necessity for Special Meeting (Gov. Code, § 11125.4)**

   Rachel Michelin moved to make the finding that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the Board and that immediate action was required to protect the public interest. Donna Burke seconded. The Board voted 8-Aye, 0-No, 0-Abstain to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla	X				
Ms. Brandvein				X	
Ms. Michelin	X				
Ms. Burke	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Mr. Morodomi				X	
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

4. Discussion and Consideration of Trailer Bill 201: Registered Dispensing Opticians Move and Conceptual Amendments Regarding Citation Structure

Donna Burke moved to approve the draft language presented by staff and legal counsel with an amendment to include "per investigation" after "($50,000)." Rachel Michelin seconded. The Board voted 8-Aye, 0-No, 0-Abstain to pass the motion.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla	X				
Ms. Brandvein				X	
Ms. Michelin	X				
Ms. Burke	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Mr. Morodomi				X	
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

5. Adjournment

Rachel Michelin moved to adjourn the meeting. Donna Burke seconded. The Board voted unanimously (8-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Dr. Chawla	X				
Ms. Brandvein				X	
Ms. Michelin	X				
Ms. Burke	X				
Dr. Kawaguchi	X				
Dr. McIntyre	X				
Mr. Morodomi				X	
Ms. Sperber	X				
Dr. Turetsky	X				
Dr. Wang	X				

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** May 27, 2016

From: Madhu Chawla
Board President **Telephone:** (916) 575-7170

Subject: **Agenda Item 5 – Department of Consumer Affairs Report**

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** May 27, 2016

From: Jessica Sieferman
Executive Officer **Telephone:** (916) 575-7184

Subject: Agenda Item 6 – Executive Officer's Report

A. BreEZe Database

Since the BreEZe launch on January 19, 2017, the Board has seen a steady increase in applicants and licensees using its online services. While there are some minor glitches in the process of being fixed, the overall feedback received is very positive. Staff has reported similar appreciation for the new system and has adapted well.

The RDO Program is still under the Medical Board in BreEZe and is scheduled to transition in 2017. Major configuration changes will be made including, but not limited to, enhancing current RDO Program functions, adding applications and renewals online, and implementing the inspection module for both programs.

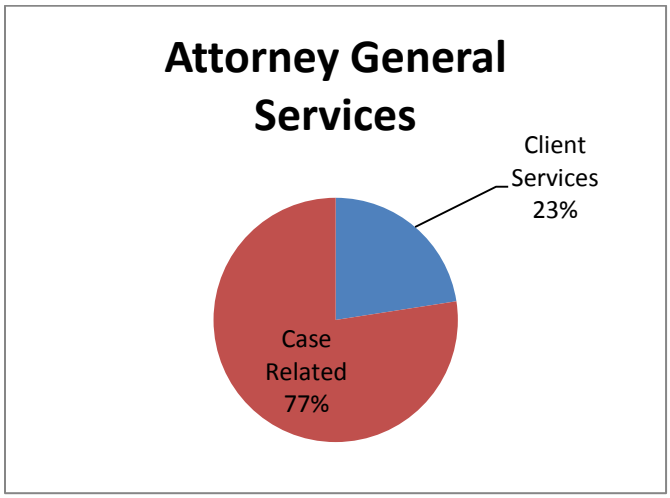
Staff continues to encourage students, applicants, and licensees to utilize BreEZe online services.

B. Budget

Optometry Fund Condition: *(No changes since the February 2016 Meeting)*
According to the Fund Condition Analysis (Attachment 1), the Board's expenditures are projected to exceed its revenues in the current year (CY 2015-16), in part due to unanticipated personnel expenses, which will impact the reserve fund. Budget Year (BY) 2016-17 also projects the Board's expenditures to exceed its revenue. However, the fund condition factors in repayment of the $1,000,000 general fund loan in BY 2016-17, pursuant to item 1110-001-0763 Budget Act of 2011. This could potentially increase the reserve to 14.9 months.

Optometry Expenditure Report (Attachment 2) – *Updated May 10, 2016*

Attorney General Costs
As requested, staff prepared a breakdown of Attorney General Costs in relation to actual enforcement casework and client services provided to the Board. The chart below shows that 77% of the work performed by the Attorney General's Office this fiscal year was related to specific enforcement/disciplinary cases. This includes filing Accusations, Statements of Issues, Petitions to Revoke Probation, Citation hearings, and obtaining a PC 23. The remaining 23% of the budget went to "Client Services." This includes activities such as client communications, internal meetings, statistics preparation, legal research, legal analysis and legal review.



The RDO transition has led to minor billing errors, but staff is working quickly with the AG's office to correct the issues.

Registered Dispensing Optician (RDO) Fund Condition: *(No changes since Feb. 2016)*
According to the RDO Fund Condition Analysis (Attachment 3), the RDO's expenditures will continue to significantly exceed its revenues through BY 2016-17. Immediate cost saving measures, including not filling vacant positions, purchasing equipment/supplies, or incurring travel costs must take place to sustain the fund as much as possible. This could hinder workload and delay any Dispensing Optician Committee meetings until the fund is stable.

RDO Expenditure Report (Attachment 4) – *Updated May 10, 2016*

C. Personnel

In April 2016, the Board staff participated in Individual Development Plans (IDPs) to enhance the professional development of each staff member (Strategic Plan Objective 6.3). With Board management, staff identified areas where they would like to improve, set short term and long term career goals, and developed a plan to meet each goal. Management will continue to assist staff in meeting goals by sending them to training classes offered through DCA's SOLID Training Solutions, enrolling them in Toastmasters, identifying mentors and monitoring their progress. As a result, many staff members are participating in SOLID's Analyst Certification Training Program to further develop their analytical skills.

In addition, the Board's Executive Officer and Assistant Executive Officer are in the middle of SOLID's Leadership Academy designed to provide supervisors/managers with the necessary skills to succeed, motivate employees and lead effective and efficient teams.

Board management and staff are participating in DCA's Employee Career Empowerment and Mentorship Pilot Program. Eight DCA programs have volunteered to participate in this pilot program which allows managers and staff to act as mentors and mentees to help learn from one another and thrive in their careers. The pilot affords flexibility to both mentees and mentors. Mentees are encouraged to set meetings with a number of different mentoring managers in order to gain a wised range of advice and guidance. Mentoring managers can rotate their participation depending on their workload and availability.

DCA has also initiated "Brown Bag Gatherings" for all Executive Officers and Assistant Executive Officers. This provides opportunities to strengthen networking among program leaders, provide the opportunity to get peer input on challenges in the workplace, and to solicit feedback on what other leadership development activities we can provide.

The Board's new policy analyst, Joanne Stacy, started on May 16, 2016. Ms. Stacy has worked as Senator Morrell's Legislative Aide since January 2014. Prior to that, Ms. Stacey served as the

Executive Assistant to the CEO of the California Medical Association in 2013 and Executive Assistant to the VP of Membership & Communications in 2012. Ms. Stacy has experience in the legislative process, writing legislative talking points, bill analysis, fact sheets, and support/opposition letters. The Board is very fortunate to have her on our team.

Interviews for the remaining three vacancies (Lead Licensing Analyst, Lead Enforcement Analyst, and Enforcement Analyst) are scheduled for the third week in May. After final candidates are selected, they will undergo eligibility checks by DCA's Office of Human Resources. As soon as we receive clearance, final offers will be made. We hope to have those positions filled by early June.

D. Examination and Licensing Programs

The Board is having an extremely difficult time recruiting for subject matter experts to participate in the California Laws and Regulation Examination Workshops. Staff and the Office of Professional Examination Services (OPES) attribute the increased difficulty to not being able to offer continuing education credit to participants. Once the regulation packet is approved through the Office of Administrative Law, recruiting should be easier. In the meantime, staff has partnered with COA to spread the word to licensees that we need subject matter experts to participate.

The Board is in need of an occupational analysis and an audit of the National Board of Examiners in Optometry (NBEO) examination to ensure the national exam. This should be done every five to years, according to DCA's and the Board has not had one completed since 2009**.** However, this is estimated to cost roughly $90,000 combined. The Board will need to seek a budget change proposal for the 2017-2018 fiscal year.

As reported above, interviews for the lead licensing analyst position will take place during the week of May 16, 2016. That position is anticipated to be filled by early June 2016. In the meantime, Carolyn Wilson continues to process all license applications.

The licensing statistics show an increase in online applications for the majority of license and permit types. Once more licensees start using the online services, cycle times are expected to substantially decrease.

With graduation season well underway, the Board has seen an increase in calls from anxious applicants checking on the status of their applications (70-80 calls per week). While the Board staff is happy to assist these callers, it is taking a toll on the time available for processing. Board staff is currently evaluating other process options to maximize the analyst's time while still providing timely assistance to callers.

E. Enforcement Program

The enforcement unit still consists of one staff services analyst and one office technician. The two vacant positions are anticipated to be filled by early June, which will help with the current enforcement caseload. As previously reported, the Board's enforcement staff will continue to absorb the RDO enforcement workload until the RDO Program's fund condition can support filling the .5 Office Technician and .06 Special Investigator positions.

The Enforcement Unit currently has 216 pending enforcement cases (170 optometrists, 46 RDO Program) and 14 disciplinary cases pending (8 optometrists, 6 RDO Program). The Enforcement Unit has received several requests from the Attorney General's Office for Disciplinary Guidelines for the RDO Program. However, it appears the Medical Board of California used the same Disciplinary Guidelines as physicians and surgeons while the RDO Program was under MBC. This has caused concern, since much of the Board's current Disciplinary Guidelines would not apply to registrants under the RDO Program. Staff works closely with the AG's office to modify its guidelines, but this should only be a temporary solution to avoid implementing any underground regulations. The Dispensing Optician Committee, pursuant to Business and Professions Code § 3020, is tasked with reviewing the disciplinary guidelines for the RDO Program, but they will have to first be created by the committee and adopted by the Board.

The Enforcement Performance Measures are attached for optometrists and the RDO Program (Attachments 5 and 6).

F. Strategic Plan

The attached Strategic Plan Status Report reflects the Board's current progress implementing all objectives (Attachment 7). While the Strategic Plan is good through 2018, staff requests the Board consider revising its plan sooner given the significant changes brought by AB 684. The Board's 2014-2018 Strategic Plan can be found on the Board's website: http://www.optometry.ca.gov/about-us/stratplan.pdf. Staff requests the Board Members review the plan and be prepared to discuss changes at a future Board meeting this year.

Attachments

1. Optometry Fund Condition Analysis
2. Optometry Expenditure Report
3. RDO Program Fund Condition Analysis
4. RDO Program Expenditure Report
5. Q3 Enforcement Performance Measures - Optometry
6. Q3 Enforcement Performance Measures – RDO Program
7. Strategic Plan Status Report

0763 - State Board of Optometry
Analysis of Fund Condition

1/7/2016

(Dollars in Thousands)

2016-17 Governor's Budget

NOTE: $1 Million Dollar General Fund Repayment Outstanding	ACTUAL 2014-15	CY 2015-16	BY 2016-17
BEGINNING BALANCE	$ 1,438	$ 1,518	$ 1,489
Prior Year Adjustment	$ -9	$ -	$ -
Adjusted Beginning Balance	$ 1,429	$ 1,518	$ 1,489
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	$ 44	$ 50	$ 63
125700 Other regulatory licenses and permits	$ 162	$ 151	$ 152
125800 Renewal fees	$ 1,619	$ 1,591	$ 1,597
125900 Delinquent fees	$ 11	$ 10	$ 10
141200 Sales of documents	$ -	$ -	$ -
142500 Miscellaneous services to the public	$ 2	$ 2	$ 2
150300 Income from surplus money investments	$ 4	$ 5	$ 5
160400 Sale of fixed assets	$ -	$ -	$ -
161000 Escheat of unclaimed checks and warrants	$ 2	$ -	$ -
161400 Miscellaneous revenues	$ -	$ -	$ -
Totals, Revenues	$ 1,844	$ 1,809	$ 1,829
Transfers from Other Funds			
GF loan per item 1110-001-0763 BA of 2011 (repay)	$ -	$ -	$ 1,000
Totals, Revenues and Transfers	$ 1,844	$ 1,809	$ 2,829
Totals, Resources	$ 3,273	$ 3,327	$ 4,318
EXPENDITURES			
Disbursements:			
0840 State Controller (State Operations)	$ -	$ -	$ -
8880 Financial Information System for CA (State Operations)	$ 2	$ 3	$ 3
1110 Program Expenditures (State Operations)	$ 1,753	$ 1,835	$ -
1111 Program Expenditures (State Operations)	$ -	$ -	$ 1,907
Total Disbursements	$ 1,755	$ 1,838	$ 1,910
FUND BALANCE			
Reserve for economic uncertainties	$ 1,518	$ 1,489	$ 2,408
Months in Reserve	9.9	9.4	14.9

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.

B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.

C. ASSUMES INTEREST RATE AT 0.3%.

BOARD OF OPTOMETRY - FUND 0763
BUDGET REPORT
FY 2015-16 EXPENDITURE PROJECTION

FM 9

OBJECT DESCRIPTION	FY 2014-15 ACTUAL EXPENDITURES (MONTH 13)	FY 2014-15 PRIOR YEAR EXPENDITURES 3/31/2015	FY 2015-16 BUDGET STONE 15-16	FY 2015-16 CURRENT YEAR EXPENDITURES 3/31/2016	FY 2015-16 PERCENT SPENT	FY 2015-16 PROJECTIONS TO YEAR END	FY 2015-16 UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Salary & Wages (Staff)	434,990	316,376	**464,000**	296,974	64%	**366,768**	97,232
Statutory Exempt (EO)	71,550	64,395	**82,000**	46,088	56%	**61,812**	20,188
Temp Help Reg (907)	72,094	18,230	**41,000**	34,743	85%	**97,813**	(56,813)
Temp Help (Exam Proctors)							0
Board Member Per Diem	13,900	7,000	**7,000**	5,300	76%	**13,000**	(6,000)
Committee Members (DEC)							0
Overtime	4,830	4,041		2,348		**3,400**	(3,400)
Staff Benefits	244,711	180,902	**303,000**	165,894	55%	**204,882**	98,118
TOTALS, PERSONNEL SVC	842,075	590,944	**897,000**	**551,347**	**61%**	**747,675**	149,325
OPERATING EXPENSE AND EQUIPMENT							
General Expense	8,909	8,350	**16,000**	7,832	49%	**10,600**	5,400
Fingerprint Report	4,009	1,789	**5,000**	2,514	50%	**4,000**	1,000
Minor Equipment	2,989	2,989	**12,000**	1,146	10%	**5,600**	6,400
Printing	1,808	1,758	**8,000**	2,403	30%	**3,600**	4,400
Communications	3,665	2,706	**5,000**	1,686	34%	**2,500**	2,500
Postage	16,336	9,811	**11,000**	8,653	79%	**16,000**	(5,000)
Insurance			**0**				0
Travel In State	41,225	21,513	**8,000**	16,363	205%	**40,000**	(32,000)
Travel, Out-of-State			**0**			**2,000**	(2,000)
Training	350	0	**1,000**	0	0%	**0**	1,000
Facilities Operations	111,133	110,299	**59,000**	110,403	187%	**112,000**	(53,000)
Utilities			**0**				0
C & P Services - Interdept.	2	37,002	**3,000**	20	1%	**20**	2,980
C & P Services - External	16,205	22,215	**15,000**	16,396		**16,396**	(1,396)
DEPARTMENTAL SERVICES:							
OIS Pro Rata	176,558	117,417	**246,000**	184,500	75%	**246,000**	0
Admin Pro Rata	118,209	85,779	**128,000**	96,000	75%	**128,000**	0
Interagency Services	0	0	**0**			**0**	0
IA w/ OPES	24,784	24,784	**0**	24,784		**24,784**	(24,784)
DOI-Pro Rata	3,562	2,685	**3,000**	2,250	75%	**3,000**	0
Public Affairs Pro Rata	3,131	2,622	**8,000**	6,000	75%	**8,000**	0
PPRD Pro Rata	3,993	2,865	**0**	0		**0**	0
INTERAGENCY SERVICES:							0
Consolidated Data Centers	335	150	**5,000**	594	12%	**594**	4,406
DP Maintenance & Supply	1,990	1,990	**1,000**	3,378	338%	**3,378**	(2,378)
Statewid Pro Rata	82,909	62,182	**101,000**	75,935	75%	**101,000**	0
EXAM EXPENSES:							0
Exam Supplies			**0**				0
Exam Freight	0	0	**484**	0	0%	**0**	484
Exam Site Rental			**0**				0
C/P Svcs-External Expert Administrative	98	98	**0**	49		**49**	(49)
C/P Svcs-External Expert Examiners	0	0	**20,516**	0	0%	**0**	20,516
C/P Svcs-External Subject Matter	15,200	7,056	**0**	908		**15,200**	(15,200)
ENFORCEMENT:							0
Attorney General	149,353	103,923	**229,000**	61,618	27%	**150,000**	79,000
Office Admin. Hearings	32,318	25,742	**38,000**	11,373	30%	**32,500**	5,500
Court Reporters	3,098	1,919		489		**3,000**	(3,000)
Evidence/Witness Fees	8,904	8,404	**16,000**	0	0%	**9,000**	7,000
DOI - Investigations	149,358	111,162	**0**			**0**	0
Major Equipment	0	0	**5,000**	0	0%	**0**	5,000
Other Items of Expense	58	58	**0**			**20,000**	(20,000)
Vehicle Operations			**0**				0
TOTALS, OE&E	980,489	777,268	**944,000**	635,293	67%	957,221	(13,221)
TOTAL EXPENSE	1,822,564	1,368,212	**1,841,000**	1,186,640	129%	**1,704,896**	136,104
Reimb. - State Optometry Fund							0
Sched. Reimb. - Fingerprints	(3,871)	(1,911)	**(6,000)**	(2,499)	42%	**(6,000)**	0
Sched. Reimb. - Other	(3,760)	(3,290)		(1,645)			0
Probation Monitoring Fee - Variable	(17,633)	(11,600)		(7,600)			0
Unsched. Reimb. - Investigative Cost Recover	(43,913)	(38,593)		(21,976)			0
Unsch - DOI ICR Administrative Case							0
Unsched. Reimb. - ICR - Prob Monitor							0
NET APPROPRIATION	1,753,387	1,312,818	**1,835,000**	1,152,920	63%	**1,698,896**	**136,104**
						SURPLUS/(DEFICIT):	**7.4%**

0175 - Registered Dispensing Opticians
Analysis of Fund Condition

Prepared 1/7/2016

(Dollars in Thousands)

2016-17 Governor's Budget

	Actuals 2014-15	CY 2015-16	BY 2016-17
BEGINNING BALANCE	$ 249	$ 172	$ 137
Prior Year Adjustment	$ -	$ -	$ -
Adjusted Beginning Balance	$ 249	$ 172	$ 137
REVENUES AND TRANSFERS			
Revenues:			
125600 Other regulatory fees	$ 3	$ -	$ -
125700 Other regulatory licenses and permits	$ 29	$ 27	$ 27
125800 Renewal fees	$ 149	$ 147	$ 147
125900 Delinquent fees	$ 7	$ 6	$ 6
150300 Income from surplus money investments	$ 1	$ -	$ -
161400 Miscellaneous revenues	$ 8	$ -	$ -
Totals, Revenues	$ 197	$ 180	$ 180
Totals, Revenues and Transfers	$ 197	$ 180	$ 180
Totals, Resources	$ 446	$ 352	$ 317
EXPENDITURES			
Disbursements:			
0840 FSCU (State Operations)	$ -	$ -	$ -
1110 Program Expenditures (State Operations)	$ 275	$ 214	$ -
1111 Program Expenditures (State Operations)	$ -	$ -	$ 310
8880 Financial Information System for California (State Ops)	$ -	$ 1	$ -
9670 Equity Claims / Board of Control (State Operations)	$ -	$ -	$ -
Total Disbursements	$ 275	$ 215	$ 310
FUND BALANCE			
Reserve for economic uncertainties	$ 172	$ 137	$ 7
Months in Reserve	9.6	5.3	0.3

NOTES:

A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED IN BY+1 AND ON-GOING.

B. ASSUMES APPROPRIATION GROWTH OF 2% PER YEAR BEGINNING IN BY+1.

C. ASSUMES INTEREST RATE AT 0.3%.

D. ESTIMATED SAVINGS OF -$140K ASSUMED IN FY 2015-16 (AUTHORIZED APPROPRIATION $354K)

REGISTERED DISPENSING OPTICIANS - FUND 0175
BUDGET REPORT
FY 2015-16 EXPENDITURE PROJECTION

FM 9

OBJECT DESCRIPTION	FY 2014-15 ACTUAL EXPENDITURES (MONTH 13)	FY 2014-15 PRIOR YEAR EXPENDITURES 3/31/2015	FY 2015-16 BUDGET STONE 2015-16	FY 2015-16 CURRENT YEAR EXPENDITURES 3/31/2016	FY 2015-16 PERCENT SPENT	FY 2015-16 PROJECTIONS TO YEAR END	FY 2015-16 UNENCUMBERED BALANCE
PERSONNEL SERVICES							
Civil Service-Perm	43,200	32,400	**39,000**	23,163	59%	**38,880**	120
Statutory Exempt (EO)							0
Temp Help - Expert Examiner (903)							0
Temp Help Reg (907)							0
Bd / Commsn (901, 920)							0
Comm Member (911)						**1,000**	(1,000)
Staff Benefits	31,085	23,243	**17,000**	15,210	89%	**25,531**	(8,531)
TOTALS, PERSONNEL SVC	74,285	55,643	**56,000**	**38,373**	**69%**	**65,411**	(9,411)
OPERATING EXPENSE AND EQUIPMENT							
General Expense	188	188	**13,000**	232	2%	**232**	12,768
Fingerprint Reports	0	0	**0**			**0**	0
Printing	807	804	**1,000**	189	19%	**800**	200
Communication	0	0	**2,000**	0	0%	**0**	2,000
Postage	15,066	14,876	**1,000**	343	34%	**2,000**	(1,000)
Insurance			**0**			**0**	0
Travel In State	69	35	**0**			**0**	0
Travel, Out-of-State			**0**			**0**	0
Training			**0**			**0**	0
Facilities Operations	0	0	**2,000**	0	0%	**0**	2,000
Utilities			**0**			**0**	0
C & P Services - Interdept.	0		**0**			**0**	0
C & P Services - External	1,000	3,000	**3,000**	14,943	498%	**3,000**	0
DEPARTMENTAL SERVICES:							
OIS Pro Rata	40,097	28,860	**60,000**	45,000	75%	**60,000**	0
Administration Pro Rata	10,364	7,425	**11,000**	8,250	75%	**11,000**	0
Interagency Services	0	0	**0**			**0**	0
Shared Svcs - MBC Only	37,072	37,072	**36,000**	18,536	51%	**36,000**	0
DOI - Pro Rata	9	234	**0**			**0**	0
Public Affairs Pro Rata	12	228	**0**			**0**	0
PCSD Pro Rata	10	249	**0**			**0**	0
INTERAGENCY SERVICES:							0
Consolidated Data Center	0	0	**4,000**	0	0%	**0**	4,000
DP Maintenance & Supply			**0**				0
Statewide - Pro Rata	17,759	13,319	**16,000**	11,750	73%	**16,000**	0
EXAMS EXPENSES:							
Exam Supplies			**0**			**0**	0
OTHER ITEMS OF EXPENSE:			**0**			**0**	0
ENFORCEMENT:							
Attorney General	44,521	29,561	**67,000**	20,556	31%	**50,000**	17,000
Office Admin. Hearings	128	80	**15,000**	1,470	10%	**3,500**	11,500
Court Reporters							0
Evidence/Witness Fees				0			0
Investigative Svcs - MBC Only	33,176	22,760	**67,000**	3,286	5%	**36,000**	31,000
TOTALS, OE&E	200,278	158,691	**298,000**	124,555	42%	**218,532**	79,468
TOTAL EXPENSE	274,563	214,334	**354,000**	162,928	110%	**283,943**	70,057
Sched. Reimb. - Fingerprints							0
Sched. Reimb. - Other							0
Unsched. Reimb. - ICR							0
Unsched. Reimb. - ICR - Prob Monitor							0
NET APPROPRIATION	274,563	214,334	**354,000**	162,928	46%	**283,943**	**70,057**
						SURPLUS/(DEFICIT):	**19.8%**

Department of Consumer Affairs

Board of Optometry

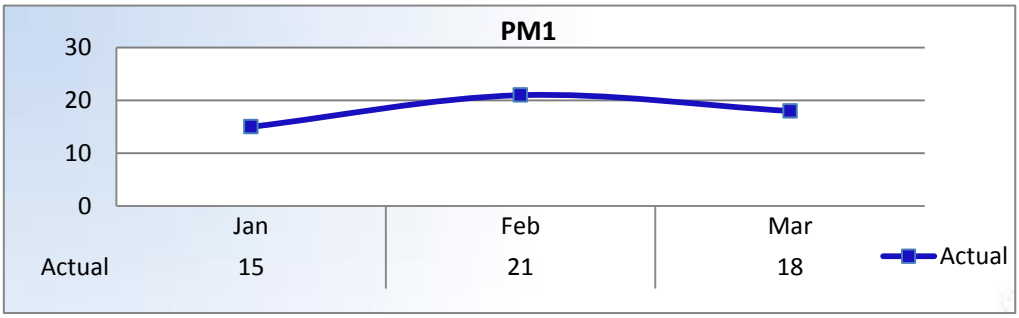
Performance Measures

Q3 Report *(January – March 2016)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

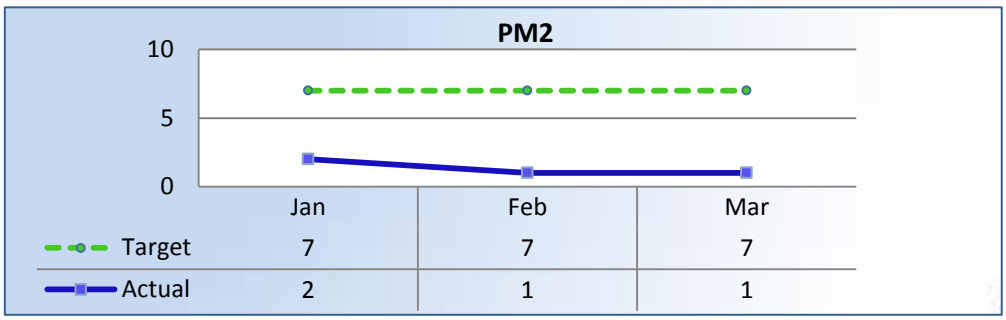


Total Received: 54 **Monthly Average**: 18

Complaints: 52 | **Convictions**: 2

PM2 | Intake

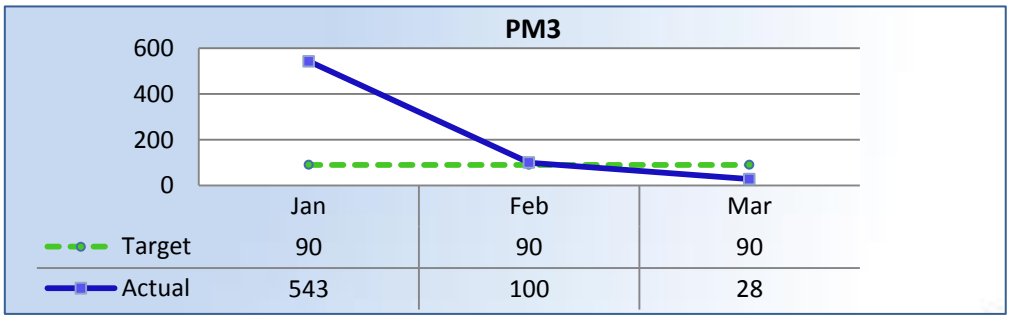
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days | **Actual Average:** 1 Day

PM3 | Intake & Investigation

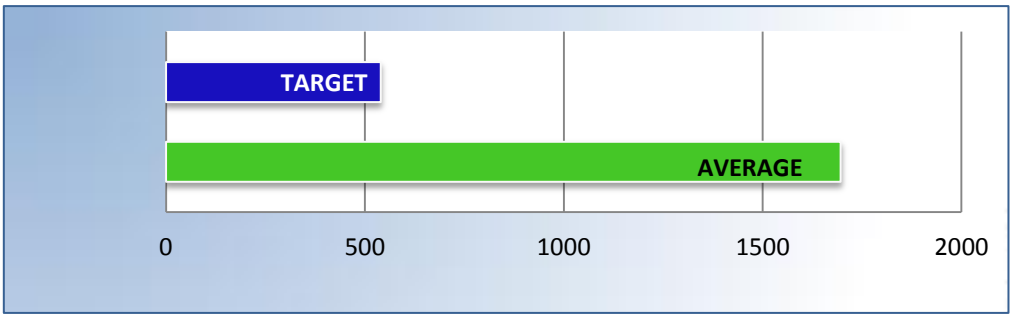
Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 90 Days | **Actual Average:** 412 Days

PM4 | Formal Discipline

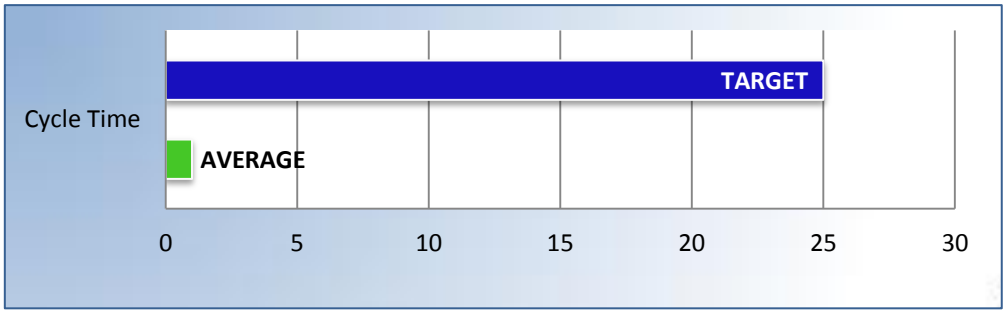
Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)



Target Average: 540 Days | **Actual Average:** 1,696 Days

PM7 |Probation Intake

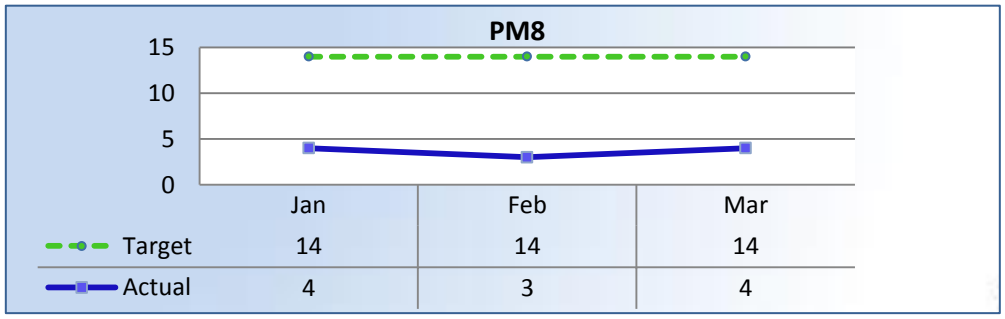
Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.



Target Average: 25 Days | **Actual Average:** 1 Day

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.



Target Average: 14 Days | **Actual Average:** 3 Days

Department of Consumer Affairs

Board of Optometry - Registered Dispensing Optician Program

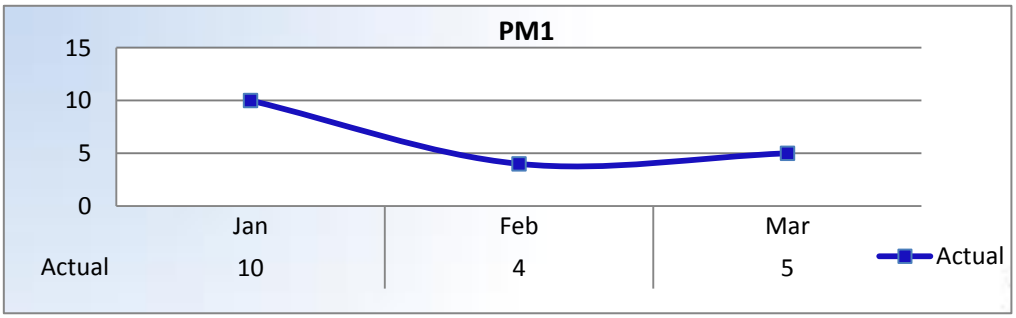
Performance Measures

Q3 Report *(January – March 2016)*

To ensure stakeholders can review the Board's progress toward meeting its enforcement goals and targets, we have developed a transparent system of performance measurement. These measures will be posted publicly on a quarterly basis.

PM1 | Volume

Number of complaints and convictions received.

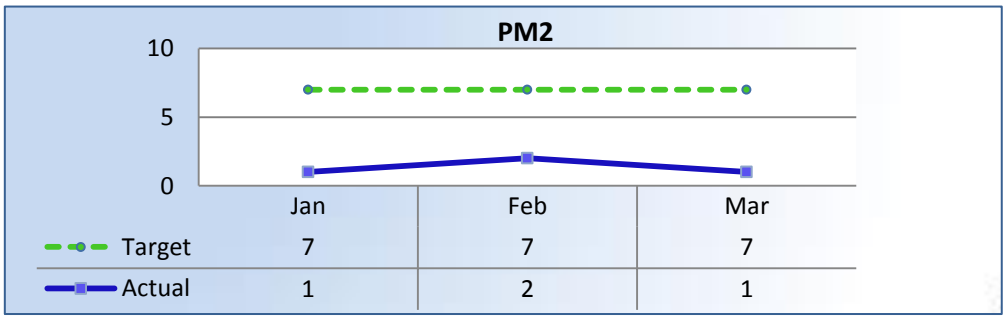


Total Received: 19 **Monthly Average**: 6

Complaints: 13 | **Convictions**: 6

PM2 | Intake

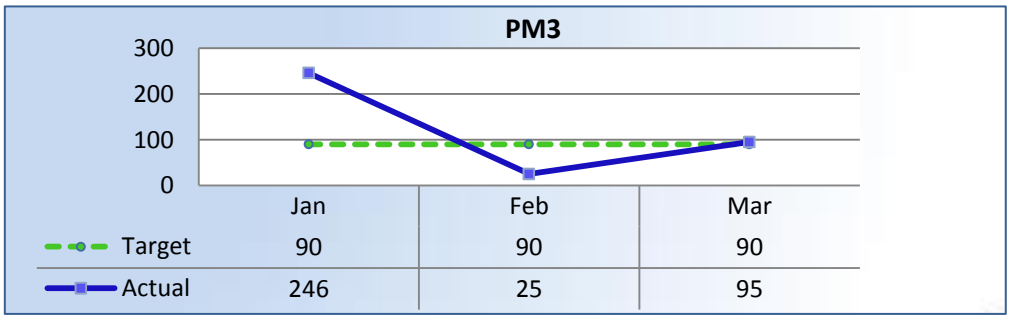
Average cycle time from complaint receipt, to the date the complaint was assigned to an investigator.



Target Average: 7 Days | **Actual Average:** 1 Day

PM3 | Intake & Investigation

Average number of days to complete the entire enforcement process for cases not transmitted to the AG. (Includes intake and investigation)



Target Average: 90 Days | **Actual Average:** 109 Days

PM4 | Formal Discipline

Average number of days to complete the entire enforcement process for cases transmitted to the AG for formal discipline. (Includes intake, investigation, and transmittal outcome)

The Program did not have any cases closed in formal discipline this quarter.

Target Average: 540 Days | **Actual Average:** n/a

PM7 |Probation Intake

Average number of days from monitor assignment, to the date the monitor makes first contact with the probationer.

The Program did not contact any new probationers this quarter.

Target Average: 25 Days | **Actual Average:** n/a

PM8 |Probation Violation Response

Average number of days from the date a violation of probation is reported, to the date the assigned monitor initiates appropriate action.

The Program did not have any probation violations this quarter.

Target Average: 14 Days | **Actual Average:** n/a

STATE BOARD OF OPTOMETRY
STRATEGIC PLAN STATUS REPORT
May 11, 2016

Licensing Goal 1 *The Board provides applicants and licensees a method for obtaining and maintaining license registration, business licenses, and certifications required to practice optometry in California.*	
Objective 1.1: Work with DCA to ensure successful implementation of the BreEZe system including ATS data clean-up to prepare for migration.	**STATUS/ COMPLETION DATE**
The Board transitioned to BreEZe on January 19, 2016. While there were a few minor data clean-up activities following the launch, the transition was very successful.	Completed 1/19/16
Objective 1.2: Inform licensees about the new online services that will be available with the launch of BreEZe.	**STATUS/ COMPLETION DATE**
Board staff met with schools in 2015 and 2016 to inform them about BreEZe features and benefits. The schools were instructed to contact the Board with any questions regarding the BreEZe system. Board staff will continue to provide additional outreach to students and faculty members. Staff also partnered with the BreEZe team, DCA's publications office, and COA to spread the word to the licensees. While this objective is met, staff believes continued push to BreEZe online services will be ongoing for the next few years. Staff continues to encourage applicants and licensees to take advantage of the new system.	Completed and Ongoing
Objective 1.3: Evaluate effectiveness of existing multi-level license structure to determine if current structure adequately meets needs of the profession and consumers.	**STATUS/ COMPLETION DATE**
The Board discussed the certification structure during the February 2016 Board meeting. The Board passed a motion to move forward with legislation which would require all licensees to have a minimum TPA certification in order to continue practicing in CA. The Board will continue to work through this issue in the next several Board meetings.	In Process
Examination Goal 2 *The Board works to provide a fair, valid and legally defensible licensing exam (California Law and Regulation Examination) and exam process to ensure that only qualified and competent individuals are licensed to provide optometric services in California.*	
Objective 2.1: Perform an occupational analysis to ensure examination integrity and address possible scope of practice expansion.	**STATUS/ COMPLETION DATE**
Staff met with DCA's Office of Professional Examination Services in April 2016 to discuss the need for an occupational analysis and audit of the NBEO exam.	In Process
Objective 2.2: Evaluate the benefit and cost of increasing the frequency of offering the California Law and Regulations Examination.	**STATUS/ COMPLETION DATE**
It was previously reported that the benefit did not outweigh the cost of increasing the frequency of offering the CLRE exam; however, Board staff is working with OPES and PSI (exam vendor) to explore the option of offering the exam more frequently. Staff has	In Process

its next meeting with OPES on this issue on May 24, 2016. Recommendations will be provided during the August 2016 Board meeting.	
Law and Regulation Goal 3 *The Board works to establish and maintain fair and just laws and regulations that provide for the protection of consumer health and safety and reflect current and emerging, efficient and cost-effective practices.*	
Objective 3.1: Actively engage in the evaluation and/or development of scope-of-practice issues and any associated legislation. If required: **1. Promulgate regulations to implement legislative changes.** **2. Identify Board functions that may be impacted by legislative changes.** **3. Develop and implement a plan to manage the increased workload created by legislative changes.**	**STATUS/ COMPLETION DATE**
Board staff participated in discussions pertaining to SB 622. The Board initially took a support if amended position; however, the Board changed its position to support during its November 2015 meeting. Board staff will continue to participate in any future discussions regarding scope expansion, provide updates to the Board, and seek Board input at each Board meeting. As of 5/11/16, SB 622 has not been amended.	In Process
Objective 3.2: Sponsor legislation to expand or clarify the Optometry Practice Act.	**STATUS/ COMPLETION DATE**

The Board has sponsored:
 	
• AB1253, which provides licensees with a retired license status
  o Status: Chaptered July 16, 2015
• AB1359, addresses the method to earn TPA certification
  o Status: Chaptered October 2, 2015
• SB349, regarding mobile optometric facilities
  o Status: Died
  o The Board created a workgroup to work with stakeholders throughout this year and develop stronger legislation next legislative session. The workgroup held its first meeting on April 28, 2016. The next workgroup meeting is scheduled for August 2016.
• SB402, which relates to school vision screenings
  o Status: Died
  o The Board created a workgroup to work with stakeholders throughout this year and develop stronger legislation next legislative session. The workgroup held its first meeting on April 28, 2016. The next workgroup meeting is scheduled for August 2016.
• SB496, regarding foreign graduates
  o Status: Died
  o The Board created a workgroup to work with stakeholders throughout this year and develop stronger legislation next legislative session.
 	
Staff is currently evaluating the Optometry Practice Act to identify areas requiring expansion or clarification. Staff will continuously update the Board on any potential need for Board sponsored legislation.
	In Process

Objective 3.3: Review regulations to determine need for clarity then revise and/or amend as needed.	**STATUS/ COMPLETION DATE**
Staff has identified multiple regulations requiring revision. Rulemaking has been initiated regarding CCR §1536 to allow licensees to take Continuing Medical Education courses for license renewal. In addition, the rulemaking process continues on CCR §1516, which permits the Board to compel for a psychological examination, and further defines unprofessional conduct. In addition, the Board has approved amending/adding the following forms and regulations: • CCR § 1502 – Delegation of Certain Functions • CCR § 1523.5 – Abandonment of Applications • CCR § 1530.1 – Qualifications of Foreign Graduates and updated form • CCR § 1536 – Continuing Optometric Education and updated form During the May 27, 2016 meeting, staff will recommend amendments to CCR § - Licensure Examination Requirements to consolidate the two licensing applications and update the regulation. This will help alleviate a lot of confusion for applicants and staff, as well as streamline the process. In addition, AB 12 (Cooley), if passed, will require until January 1, 2019, each state agency to review that agency's regulations, identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor, as specified. This requirement falls in line with this objective and ensure staff reviews all Board regulations.	In Process
Objective 3.4: Inform and educate licensees and interested stakeholders about new or unfamiliar laws and regulations.	**STATUS/ COMPLETION DATE**
The Board uses social media and its website to disseminate information on its new or unfamiliar laws. In addition, with each regulation amendment listed above, public notices are disseminated seeking public comment. Staff also met with COA to discuss common misconceptions regarding current laws and will continue to partner with them in order to educate the licensees. Staff is also working on disseminating a fact sheet for the recent changes implemented for AB 684. It will be for licensees and registrants who are seeking Board information on how the changes impact them. Staff received feedback from DCA Legal and the Attorney General's Office on the document and hopes to have a rough draft to present to the Board during the August 2016 meeting. Further, licensing processes and requirements have been clarified with staff, which in turn is being disseminated to callers, applicants, and licensees. Staff will continue to educate Board licensees and stakeholders about the laws.	In Process
Objective 3.5: Explore the feasibility of transferring regulation authority for Registered Dispensing Opticians (RDO) from the Medical Board of California to the Board of Optometry.	**STATUS/ COMPLETION DATE**
Effective January 1, 2016, as a result of AB 684 passing, the RDO Program moved from the MBC to the Board.	Completed January 1, 2016

Enforcement Goal 4 *The Board protects the health and safety of consumers of optometric services through the active enforcement of the laws and regulations governing the safe practice of Optometry in California.*	
Objective 4.1: Submit a Budget Change Proposal (BCP) to request additional enforcement analysts and clerical positions to support the CURES implementation, improve investigative processing times, and streamline the enforcement process.	**STATUS/ COMPLETION DATE**
The Board's Enforcement Unit has been restructured (gaining an enforcement position) in order to improve efficiencies with existing resources. Existing workload did not justify additional enforcement positions; however, the Board currently has two enforcement vacancies and anticipates filling them by the end of May 2016. In addition, a zero-cost BCP creates a .6 special investigator to handle RDO caseload (previously absorbed by the MBC). Once the RDO Program has funds to support the position, that workload will shift from Optometry staff to RDO staff. Further, with AB 684 passing, there is an anticipated increase in enforcement. Staff will closely monitor workload over the next year to see if a BCP for additional staff is justified.	No Longer Pursuing. Will Continue to Monitor and Submit a BCP if Justified by Workload
Objective 4.2: Work with DCA to ensure successful implementation of the BreEZe system including CAS data clean-up to prepare for migration.	**STATUS/ COMPLETION DATE**
Board staff met with schools in 2015 and 2016 to inform them about BreEZe features and benefits. The schools were instructed to contact the Board with any questions regarding the BreEZe system. Board staff will continue to provide additional outreach to students and faculty members. Staff also partnered with the BreEZe team, DCA's publications office, and COA to spread the word to the licensees. While this objective is met, staff believes continued push to BreEZe online services will be ongoing for the next few years. Staff continues to encourage applicants and licensees to take advantage of the new system.	Completed and Ongoing
Objective 4.3: Identify and implement process improvements in the Enforcement unit to reduce enforcement and discipline cycle times.	**STATUS/ COMPLETION DATE**
The Board's Enforcement Unit has been restructured in order to improve efficiencies with existing resources. In addition, the Board's Enforcement Unit identified and eliminated unnecessary processes, which should improve discipline cycle times. Enforcement staff continues to monitor the effectiveness of these changes. However, with two vacancies and currently absorbing the RDO enforcement cases, measuring and analyzing the effectiveness of the changes is difficult. Once the enforcement unit is fully staffed and the RDO Program has the enforcement positon, staff will resume analyzing the success of the changes.	Completed and In Process
Objective 4.4: Create inspection authority to enable the Board to inspect practice locations to proactively identify areas of non-compliance.	**STATUS/ COMPLETION DATE**
AB 684 granted inspection authority to leases and premises of co-located settings (when an optometrist and a registered dispensing optician are working in the same location). In addition, during the February 2016 Board meeting, the Board approved broader inspection authority language to apply to all optometry practice locations. The language was sent the Administration for inclusion in Trailer Bill	In Process

Issue 201. Staff is working with the Administration to incorporate the changes. At this time, the language may be in the trailer bill or another policy bill.	
Objective 4.5: Increase enforcement efforts to address optometry practice in unlicensed locations.	**STATUS/ COMPLETION DATE**
The Board's Enforcement Unit is proactively investigating potential unlicensed practice by companies offering online optometric services to California consumers. In addition, Staff (as the Board directed) is currently working on an outreach plan, including educational materials for the public so they are aware of the dangers of these online services.. Further, staff is working with DCA's publication unit to develop short PSA videos informing consumers about contact lens safety, including the potential dangers of receiving services from an unlicensed individual.	Ongoing. No update
Objective 4.6: Increase communication to administrators of community and school clinics to educate administrators about the Board's complaint process.	**STATUS/ COMPLETION DATE**
	No update.
Outreach Goal 5 *The Board proactively educates, informs and engages consumers, licensees, students and other stakeholders on the practice of optometry and the laws and regulations which govern it.*	
Objective 5.1: Create a Budget Change Proposal (BCP) to request one additional position to support expansion of the Board's outreach program.	**STATUS/ COMPLETION DATE**
	No update.
5.2 Develop a communications plan that includes the following:	**STATUS/ COMPLETION DATE**
a) Include inserts with renewal notices to optometrists with reminders about the requirement to make consumer protection information available to patients. **b) Research the feasibility of using free public service announcements to disseminate optometric health information to consumers.** Board staff has researched using free public services announcements through Capitol Public Radio. However, their free PSAs appear to be limited to nonprofit organizations. Staff is continuing to research this to see if they make an exception for the Board. Since Cap Radio's mission is to serve listeners and the community, perhaps the Board's consumer protection mission and its interest to educating consumers will help. **c) Identify public relations agencies that could provide pro bono work to assist the Board with expanding outreach to consumers.** **d) Work with DCA's Office of Publications, Design and Editing to create multi-language consumer education materials.** **e) Expand social media by using more frequent messages and exploring additional online opportunities.** Board staff is currently utilizing multiple social media platforms including Facebook, Twitter, and Youtube. The links to these social media sites are included in the signature blocks of all Board staff. **f) Explore having a Board representative attend major optometric continuing education events for direct outreach to licensees.** During the October 22, 2015 DCA Director's meeting with Executive Officers and Board Presidents, DCA reminded everyone that the Governor's Office Executive	In Process No update.

Order (EO) B-06-11 remains in effect. DCA's Executive Office delegated Executive Officers authority to approve in-state travel requests deemed as mission-critical pursuant to EO B-06-11. Providing outreach to licensees, although important, does not meet the mission critical conditions provided. Therefore, travel will not be approved for these events.	
Organizational Effectiveness Goal 6 *The Board works to develop and maintain an efficient and effective team of professional and public leaders and staff with sufficient resources to improve the Board's provision of programs and services.*	
Objective 6.1: Document all internal Board procedures and processes to ensure successful succession planning of Board staff and Board members.	**STATUS/ COMPLETION DATE**
With the assistance of the DCA's OCM team, Board staff mapped all current licensing and enforcement business processes. The OCM team also mapped out to-be processes in BreEZe and identified any gaps (process changes). The OCM team developed transition guides that will be used for all staff. In addition, staff participating in UAT and DV indentified process changes to be included in those guides. The Board updated the Board member handbook to ensure the board members have the most updated and accurate information to assist current and future Board members. The Board delegated the EO to work with legal to make non-substantive changes to the handbook. With AB 684 passing, the handbook is being updated to reflect current law. Once approved by legal, it will be sent to DCA's publication unit for printing. Final handbooks will be disseminated at the August 2016 meeting. While the procedures and processes are now documented, minor changes are being made to mirror the BreEZe changes and AB 684 changes.	Completed
6.2 Conduct a job analysis for all Board programs to identify areas for resource allocation and enhancement.	**STATUS/ COMPLETION DATE**
The Board's Enforcement, Licensing, and Administration Units have been restructured in order to improve efficiencies with existing resources. Staff will continuously monitor the effectiveness of these changes and present updates at each meeting.	Completed
6.3 Use the Individual Development Plan (IDP) process to increase professional development of Board staff.	**STATUS/ COMPLETION DATE**
IDPs are now being used with all staff. They will continue annually to help increased the professional development of each Board staff.	Completed and Ongoing

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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To: Board Members **Date:** May 27, 2016

From: Jessica Sieferman
Executive Officer **Telephone:** (916) 575-7184

Subject: **Agenda Item 7 – Update, Presentation, and Possible Action on the Sunset Review Process/New Sunset Issues**

This report is intended to provide the Members with an overview of the sunset review process for the California State Board of Optometry (Board). Included in this report is a section entitled New Issues. After review and consideration of the New Issues section, determine which items the Board Members want to direct staff to present as issues in the Board's Sunset Report.

Background on the Sunset Review Process:
Every board/bureau/committee under the auspices of the Department of Consumer Affairs (DCA), as well as other regulatory entities, goes through a sunset review process every four years (unless the legislature has requested a shorter time frame between reviews). The timing of a board's sunset review process is usually in coordination with the date set in statute for the repeal of the laws pertaining to that board, or its "sunset date." For example, Business and Professions Code (BPC) § 3010.5, which authorizes the Board, is repealed as of January 1, 2018, unless a later enacted statute deletes or extends that date. The purpose of the sunset review process is to determine if the board/bureau/committee is performing its mission of consumer protection and to identify any areas where the Legislature believes improvements need to be made.

The sunset review process is overseen jointly by the Senate Business, Professions, and Economic Development Committee and the Assembly Business and Professions Committee. The process is usually initiated in the spring two years prior to the sunset date set in statute. The sunset review process begins by the Committees sending out a questionnaire to the Board requesting completion by the following November or December. This questionnaire requests information on a wide variety of issues, including, but not limited to Board Members, legislation, regulations, major studies, performance measures, customer satisfaction surveys, budget and staffing information, licensing and enforcement program information, public information policies, unlicensed activity, and workforce development and job creation.

The questionnaire also discusses current issues, which could include the implementation of the Uniform Standards, the Consumer Protection Enforcement Initiative regulations, BreEZe, and any other issues the Committees would like the Board to address. The next section of the questionnaire covers issues that had been brought up under the Board's prior sunset review and what action the Board took to address the issues that were raised. Lastly, the questionnaire asks for any new issues that have been raised to or by the Board and any recommended solutions to these issues where the Committees may be of assistance. This is also the section where the Board would address any issues that had been raised in a prior sunset review process that had not been addressed.

As of the date of this report, the Board has not received the sunset review questionnaire. Upon receipt of the questionnaire, Board staff work to develop a report that addresses all the questions in the document. Staff will develop a task plan and identify the staff that will work on each section and the due dates for the responses. Upon completion of the report, the Board Members would review and approve the report. Depending upon the timing of the receipt of the questionnaire and the due date for the report, this review may be conducted at a quarterly Board meeting or may need to take place during a separate Board meeting.

Another factor that impacts the completion of the report is that most of the data and information requested needs to go through the end of fiscal year 2015-2016, which is June 30, 2016. Therefore, reports for that specific year won't begin until July 2016. The majority of the narrative in the report should be based upon the data provided. Therefore, staff anticipates bringing a draft report to the Members at the August 2016 Board meeting for review, discussion, and approval. The Board President may wish to assign a subcommittee of the Board to assist staff in the review prior to the August 2016 meeting to oversee the preparation of the report.

Once the Board approves the report, it is submitted to the Committees. Between December and February of the following year, the Committees' staff reviews the Board's report and develops a background paper. This background paper is a snapshot of the Board's report and also includes identified issues and recommendations regarding the Board, including comments on the issues raised by the Board itself. The joint Committees then set a Legislative Hearing, which is usually set in March. Prior to the March hearing, Committee staff will contact the Board to identify the issues upon which they are seeking Board testimony. In the past, the Board Executive Officer attended the hearing and provided testimony. After observing several other sunset hearings, staff recommends having the Board President, Vice President and the Executive Officer attend the hearing, provide testimony, address the issues raised by the Committees, and respond to any questions from the Committee Members. During the hearing, comments are also heard by members of the public, associations, etc. In some situations, the Executive Officer, Board President and Vice President may attend meetings with Members of the Committees prior to the hearing to address any specific concerns and answer any questions.

After the hearing, the Board is usually provided 30 days to provide a written response to all the issues raised in the background report. This document does not have to be reviewed and approved by the Board, but should be reviewed and approved by the Board President and/or Vice President or a subcommittee of the Board if one is appointed. These responses are then provided to the Committees.

After the hearing, the Legislature may 1) extend the sunset date of the Board, which is usually extended for four years unless there are major concerns and then it may be only extended for one or two years; 2) let the Board and its statutes/regulations sunset; or 3) sunset the Board and move its regulatory functions under DCA as a bureau. Should the Legislature decide to extend the Board's sunset date, one of the Committees will author a bill that will then go through the legislative process. This bill will also contain any changes to the Board's laws that may have been brought up as issues by the Board, a Committee Member, or the background paper.

<u>Prior Sunset Report Issues:</u>
The Board's last Sunset Review Report was completed in 2012 and the hearing was held in 2013. The background paper that was provided to the Board contained 7 issues where the Board had to provide responses. As a result, the Committee made six recommendations for the Board to work on prior to the next Sunset Review:

1. In line with the recommendations made during the 2002 Sunset Review hearing, the Committee recommends that the Board take immediate action to conduct the occupational analysis.
2. The Board should work with DCA to ensure that they are provided the funds to apply for the NPDB and HIPDB.
3. The Committee recommends that the Board specify what additional measures can be taken to expedite processing of enforcement cases.
4. The Committee requests that the Board provide a plan for increasing the workload of its enforcement officers considering the existing budget and staffing constraints.

5. The Board should inform the Committee of its plan to continue carrying out its various duties if no additional staff is allocated for the Board. The Board may want to explore the possibility of hiring temporary or part-time staff to assist with completing critical tasks.
6. The Board should make every attempt to comply with BPC § 115.5 in order to expedite licensure for military spouses. The Board should also consider waiving the fees for reinstating the license of an active duty military licensee.

Almost all of the issues have been addressed. Issue number 1, however, has not been initiated due to lack of funding for an occupational analysis. Board staff plans to discuss this issue with the Committees to determine if an occupational analysis of optometric assistance is still warranted. According to the Board's 2002 Sunset Report, the Committee Recommended the occupational analysis to "identify the tasks they will perform, and the attendant training and skill level required." However, legislation passed in 2011 amending BPC § 2544, which specifies what an optometric assistant can do. If the assistant performs any tasks other than those specified and/or without the supervision of the physician and surgeon or optometrist, the Board can pursue unlicensed practice charges. The optometric assistant works under the "direct reasonability and supervision of an ophthalmologist or optometrist." Therefore, the ophthalmologist or optometrist is ultimately responsible if his/her assistant did anything incorrectly. Board staff believes this is sufficient to protect consumers. However, the Board may want to consider regulations to further define "direct responsibility and supervision."

Possible New Sunset Issues:
As indicated above, part of the sunset review process is the Board bringing up new issues that have been raised to or by the Board and any recommended solutions to these issues where the Committees may be of assistance. Board staff has identified some issues that should be placed in this section of the report. In addition, a few issues have been raised at Board meetings by Board Members. The Board Members should review each of these issues to determine if Board staff should include the issues in the sunset review report. In addition, Board Members should determine if any additional issues should be brought forward in the report.

- Occupational Analysis and Audit of NBEO Exam: According to DCA Policy and industry standards, an occupational analysis and comprehensive audit should be conducted on licensing exams every five years. The occupational analysis is needed to assure validity, maintain consistency, preserve security, and ensure integrity of the examination. However, the Board has not had an analysis and audit performed since 2009. To remedy this, Board staff will submit a BCP for the 2017-2018 fiscal year to secure funding. If the Board cannot secure funds, the Board would remain out of compliance with evaluation standards, be unable to perform its Strategic Plan objectives, and potentially risk the Board licensing optometrists who are not tested on procedures within their scope of practice in California. Board staff believes this should be a higher priority than an occupational analysis of optometric assistants.

- RDO Program: The majority of the RDO Program's statutes and regulations have not been amended in decades. Staff believes an in depth review of all laws governing the program is needed. Since the RDO Program does not have a policy analyst, the work will need to be performed by the Board's Policy Analyst. In addition, the RDO Program's fund condition is in need of immediate attention. If the inadequate fee structure is not remedied shortly, the Board will be forced to absorb all costs of the program.

- Licensing Requirements Review: The Board was recently identified by the Little Hoover Commission as having strict barriers to licensure for optometrists licensed in other states. In addition, AB 12, if passed, would require the Board to review and identify any regulations that are duplicative, overlapping, inconsistent, or out of date, to revise those identified regulations, as provided, and report to the Legislature and Governor. Board staff believes this review should happen whether or not AB 12 passes.

- Minimum Certification Requirement: In February 2016, the Board voted to pursue legislation that would require all optometrists to obtain a TPA certification in order to continue practicing in

California. While those who do not possess a TPA certification are able to practice within their limited scope, the Board believes allowing these individuals to practice is no longer in the best interest of California patients.

- Online Refractions: The Board has developed an outreach campaign to educate consumers on the difference between an online refraction and a comprehensive eye examination. The Board believes that its current laws are sufficient to protect consumers from unlicensed practice and unprofessional conduct (should an optometrist become involved); however, some believe the Board should pursue legislation to prohibit online refractions in California. In addition, the Board's outreach campaign was recently mentioned in a USA Today online article, where it was accused of "using state tax dollars to fund a public relations effort against Opternative, the company operating in most states, because its service threatens the old way of doing things." While these allegations were untrue, increased media attention can lead to increased scrutiny during sunset review.

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To: Board Members **Date:** May 27, 2016

From: Appointment Committee **Telephone:** (916) 575-7184

Subject: **Agenda Item 8 –Update on RDO Advisory Committee Application and Creation of RDO Appointments Committee**

During the February 2016 Board meeting, staff was directed to work with the Dispensing Optician Appointments Committee to revise the RDO interest form to mirror the Governor's online application. However, after further review, it was determined that the Board does not have the authority to ask many of the questions on the Governor's application. This stems from the fact that the Governor is vested by the California Constitution to hold the supreme executive power, which exceeds the limited powers of a state agency.

In addition, the Information Practices Act only allows the Board to store and maintain information relevant and necessary to accomplish a purpose of the Board. Much of the information on the Governor's application goes beyond that, such as: the identity of an applicant's spouse, the applicant's driver license number, how long they have lived at their current address, income tax filing, child support, political affiliations or statements, and potential embarrassment statements.

Thus, with legal assistance, the committee approved the following information to be included on the application:

- Name of Applicant
- Position Sought:
  - Registered Dispensing Optician
  - Public Member
- Willing to Waive Per Diem check box
- Residence Address
- Business Address
- Educational History
- Work History
- Professional Licenses & Certificates
- Organizations and Society Memberships
- Have you ever been a registered lobbyist or have you lobbied at any government? If yes, please explain. Include dates.
- Do you own real property, personal property, financial holdings or receive income from any source which might present a potential conflict of interest or appearance of conflict of interest with your requested appointment? If yes, please explain.

- Have you ever been disciplined or cited for a breach of ethics or unprofessional conduct or been the subject of a complaint to any court, administrative agency, professional association, disciplinary committee, or other professional group? If yes, please explain.
- EXPRESSION OF INTEREST
    - Please explain why you wish to serve on the Dispensing Opticians Committee.
    - Please explain your experience working on a committee.
    - Do you have any time commitments that will impact your ability to attend DOC meetings that may be in person or via conference call held at a public space and meet all Bagley-Keene Open Meeting Act Public Noticing Requirements? (drop-down, yes or no)

The committee is now working on a reasonable timeframe for applicants to return their applications, attend interviews and present to the full Board. Once the timeline is finalized, the application will be posted on the Board's website and distributed to all RDO registrants, various media outlets, the American Board of Opticianry and National Contact Lens Examiners, the professional associations, social media outlets, and Board Members.

The goal is to have final candidates presented to the Board during the August 2016 Board meeting.

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To: Board Members **Date:** May 27, 2016

From: Donna Burke
Committee Chair **Telephone:** (916) 575-7184

Subject: **Agenda Item 9 –Update from the Public Relations and Outreach Committee Regarding the Board's Online Refractions Educational Campaign**

During the February 2016 Board meeting, the Board approved the Public Relations and Outreach Committee's brochure on online refractions (Attachment 1) and its proposed Online Refractions Education Campaign. On April 21, 2016, the Committee met to discuss and implement next steps of the campaign.

During this meeting, the Committee discussed working with the Department of Consumer Affairs (DCA) to research ensuring search engine optimization. The Committee would like the brochure to be one of the first items listed when consumers search online for anything related to "online refractions."

In addition, the Committee discussed using snippets from the brochure and photos of the Board members to develop more outreach materials. The Committee would also like to work with DCA's Office of Public Affairs to create short, informational videos and soundbites to send to television and radio broadcasts, blogs, and post on the Board's social media sites. Frequently asked questions regarding online refractions will be developed as well.

The Committee discussed having corporations help cascade the message in addition to distributing the message to pediatricians, health centers at junior colleges, the School Nurse Association and other organizations. The Committee will also research potential grant writing to secure funding for outreach efforts.

Working with DCA and legal counsel, the Committee would also like to send out a press release to counter the USA Today article that incorrectly identified the Board as using "state tax dollars to fund a public relations effort against [a company] […] because its service threatens the old way of doing things." The Committee's efforts are not against or focused on any specific company. Rather, the Committee is focused on educating consumers on the differences between an online refraction and a comprehensive eye exam. Moreover, all Board operations are solely funded by its applicants and licensees. The Board is a "Special Fund" agency, meaning the Board is entirely self-sustaining and does not rely on the "General Fund" (aka – state tax payers) to operate. Unfortunately, the public – including the media – often do not understand the difference and assume all state agencies are funded by tax payers.

Further, the Committee would like the Committee Chair and Board President to present at a Medical Board of California Board Meeting to seek their assistance in addressing this issue.

Next Committee Date: June 2, 2016

Attachments:

1. Online Refraction Brochure

Understand the risks to your health

Clear vision does not necessarily mean healthy eyes. If you substitute an online refractive eye test for a comprehensive eye exam, key eye issues could be missed and you could be putting your eye health—and possibly your overall health—at serious risk.

What is an online refractive test?

An online refractive test is a service provided through a website. It is a vision test used as a tool by some California licensed eye care practitioners only to determine your eyeglass or contact lens prescription.

Consumers take the test for a fee and can then receive a prescription for eyeglasses or contact lenses from a California-licensed eye care practitioner.

CALIFORNIA STATE BOARD OF OPTOMETRY

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STATE OF CA
DEPARTMENT OF CONSUMER AFFAIRS

PDE_16-007

ONLINE REFRACTIONS:
NOT A COMPREHENSIVE EYE EXAM

CALIFORNIA STATE BOARD OF OPTOMETRY

What does a comprehensive eye exam cover that an online refractive test does not?

As opposed to an online refractive test, a tool used to only determine the appropriate lens power needed to improve your vision, a comprehensive eye exam entails an optometrist or ophthalmologist evaluating the overall health of your eyes by:

- Understanding your case history.
- Completing a thorough exam, which will determine the internal and external health of your eyes.
- Conducting an evaluation of your refractive status (how your eyes focus and coordinate) and determining a prescription accordingly.

Are comprehensive eye exams only for the elderly?

No. You do not have to be elderly, or even middle-aged, to have eye health issues. For example, young people can have diabetes, retinal tears, and eye infections that can be detected during a comprehensive eye exam.

Why is a comprehensive eye exam important?

The California State Board of Optometry, a consumer protection agency that licenses and regulates optometrists and the optometry profession, believes routine, comprehensive eye exams are crucial to maintain good eye health.

Refractive tests cannot discover eye problems such as:

- Cataracts
- Glaucoma
- Diabetic retinopathy
- Retinal tears and scarring
- Eye infections
- Dry eye syndrome

Some eye health issues have few warning signs and no pain. A comprehensive eye exam performed by an eye care professional (optometrist or ophthalmologist) can help ensure that a problem is found and treated early. For example, diabetes affects more than 8 percent of the U.S. population, but about 7 million people are unaware they are diabetic, according to the Centers for Disease Control and Prevention.

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

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To: Board Members **Date:** May 27, 2016

From: Robert Stephanopoulos
Assistant Executive Officer **Telephone:** (916) 575-7185

Subject: **Agenda Item 10 – Update and Possible Action on Legislation Impacting the Practice of Optometry**

The following bills, as currently written, impact the Board's functions and the practice of optometry. The most current bill language for each bill is attached.

A. Assembly Bill 12 (Cooley) State Government: Administrative Regulations: Review.

Last Amended: August 19, 2015

Summary: This bill would require every state agency to review all provisions of the California Code of Regulations (CCR) it has adopted, and to adopt, amend, or repeal any regulations identified as duplicative, overlapping, or out of date by January 1, 2018.

Status: In committee: Held under submission - 8/27/15

Recommendation: Watch

Potential Board Impact: This is in line with the Board's Strategic Plan (Objective 3.3) to review current regulations and determine the need for clarity and revisions. This bill would simply mandate the review by statute.

Position: None

Recent Bill Analysis: 08/24/15- Senate Appropriations

B. Assembly Bill 2744 (Gordon) Healing Arts: Referrals.

Last Amended: April 11, 2016

Summary: This bill provides that payment or receipt of consideration for advertising for prepaid services offered by a licensed healing arts practitioner, subject to certain exclusions, does not constitute a referral of those services, and specifies that if the prepaid service is not appropriate for the purchaser, the licensee must provide a full price refund to the purchaser, as specified.

Status: Read second time. Ordered to Consent Calendar - 5/5/16

Recommendation: Watch

Position: None

Recent Bill Analysis: 05/02/16- Assembly Appropriations

Potential Board Impact: Over the last few years, the Board's enforcement unit has received several inquiries into the legality of using service such as Groupon and how it relates to BPC § 650. This bill will provide clarity that using said services would not violation the law. Thus, staff believes this will assist licensees when considering this type of service and may lead to less enforcement cases.

C. Senate Bill 1039 (Hill) Professions and Vocations

Last Amended: April 21, 2016

Summary: This is an omnibus bill which includes several changes to a number of boards under the Department of Consumer Affairs and also includes specified fee increases for several boards including the Board of Registered Nursing, the Pharmacy Board, the Contractors State License Board and the Court Reporters Board. This measure would also eliminate the current Telephone Medical Advice Services Bureau.

Status: May 9 hearing postponed by committee – 5/2/16

Recommendation: Support if Amended Position

Recent Bill Analysis: 04/14/16- Senate Business, Professions And Economic Development

Potential Board Impact: This bill deletes a provision that allows contact lens and spectacle lens dispensing applications to expire. Staff believes this was an unintended consequence, and recommends requesting keeping the language or adding it under the Optometry Practice Act. In addition, the Administration and Board staff believes the new RDO fee structure should be added with all other entities requesting fee increases.

At the February 2016 meeting, the Board directed the Executive Officer to work with the Administration on providing a viable and defensible ceiling and floor fee structure for the sustainable operation of the RDO program and allowing flexibility to make changes to the fees by regulation. Staff worked with the Administration, DCA Legal, and DCA Budget's Office to determine viable options to generate the required revenue (pursuant to the audit) while being mindful of the significant fee increases. One option the Board could consider is adding an application fee to each registration. This is extremely common throughout DCA, and would reduce the impact to initial license and renewal fees.

The table below demonstrates two options when considering the fee floor – with and without an application fee. If the Board builds a $150 application fee for all applications, all initial registration and renewal fees can be set at $200 (100-167% increase) and delinquency fees at $50 (100% increase). Without the application fee, all initial applications should be set to $350 (250-367% increase), renewals to $200 (100-167% increase), and delinquency fees to $50 (100% increase). Both options allow the RDO Program to sustain the program.

As the fee auditor mentioned in his report and presentation to the members, projecting for the future given so many unknown factors (related to AB 684 impacts to the licensing population, enforcement caseload and inspection programs) is difficult. Thus, the fee ceiling should be set high enough to provide time for data collection and reassessment of impacted programs in 3-5 years. The fee audit recommended looking at the program's fund in a ten year window to establish the fee ceiling and then do period reassessments (every 3-5 years) to adjust the fee within this cap. Thus, the fee ceiling

below reflects the 10 year window and builds in a 5% growth in program expenditures to keep the fund at approximately 6 months in reserve in FY 2026-27.

Attached is recommended language for the Board's consideration (Attachment 1). Board staff requests a motion to approve one of the options below and provide amendments to Senator Hill for consideration in SB 1039.

Fee Type	Proposed Fee Floor	Proposed Fee Ceiling	Proposed Fee Floor	Proposed Fee Ceiling
Application Fee	$ 150	$ 160	$ -	$ -
RDO Initial	$ 200	$ 240	$ 350	$ 400
CLD Initial	$ 200	$ 240	$ 350	$ 400
SLD Initial	$ 200	$ 240	$ 350	$ 400
OSC Initial	$ 200	$ 240	$ 350	$ 400
RDO Renewal	$ 200	$ 240	$ 200	$ 240
CLD Renewal	$ 200	$ 240	$ 200	$ 240
SLD Renewal	$ 200	$ 240	$ 200	$ 240
OSC Renewal	$ 200	$ 240	$ 200	$ 240
RDO Delinq	$ 50	$ 60	$ 50	$ 60
CLD Delinq	$ 50	$ 60	$ 50	$ 60
SLD Delinq	$ 50	$ 60	$ 50	$ 60
OSC Delinq	$ 50	$ 60	$ 50	$ 60

In addition, Board staff requests the Board approve minor technical amendments to be included in the omnibus bill (Attachment 2). The amendments include updating BPC § 27 to include all license and registration types, changing references to the Medical Board of California to the Board and changing "State Board of Optometry" to "California State Board of Optometry" for consistency.

D. Senate Bill 1195 (Hill) Professions and Vocations: Board Actions: Competitive Impact.

Last Amended: April 6, 2016

Summary: Grants authority to the Director of the Department of Consumer Affairs (DCA) to review a decision or other action, except as specified, of a board within the DCA to determine whether it unreasonably restrains trade and to approve, disapprove, or modify the board decision or action, as specified; eliminates the requirement that the executive officer of the Board of Registered Nursing be a registered nurse; clarifies when a judgment or settlement for treble damages antitrust award would be granted for a member of a regulatory board; provides for an additional standard for the Office of Administrative Law to follow when reviewing regulatory actions of state boards. Also makes various changes that are intended to improve the effectiveness of the Veterinary Medical Board (Board) and extends the Board's sunset dates.

Status: Set for hearing May 16 – 5/6/16

Recommendation: Watch

Recent Bill Analysis: 04/14/16- Senate Business, Professions And Economic Development

Potential Board Impact: This bill grants more authority to the Director by allowing him/her to approve, disapprove, or modify the board decisions or actions. However, this still may not address the concerns raised by the U.S. Supreme Court Decision in the North Carolina State Board of Dental

Examiners v. FTC or protect the members from potential anti-competitive lawsuits. In addition, any consumer who does not approve a Board action may request the Director's review, which would stay (hold) the Board action. This could lead to delayed implementation of a disciplinary decision if a respondent challenges a Board decision.

E. **Senate Bill 349 (Bates) Optometry: Mobile Optometric Facilities.**

Last Amended: April 6, 2015

Summary: This bill would have established standards for the operation of mobile optometric facilities, including physical requirements, ownership limitations, record-keeping protocols.

Status: Died

Recommendation: Continue with Workgroup

Recent Bill Analysis: None

Workgroup Update: During the November 2015 Board Meeting, the Board created a workgroup to work with stakeholders on this issue and present stronger legislation for the next legislative session. The Board President appointed Rachel Michelin and Lilian Wang, OD to the workgroup. The workgroup held its first meeting with stakeholders in April 2016. The workgroup heard several concerns related to the initial bill language and decided the best option was continue working with stakeholders to draft new language rather than work to fix the previous bill. The workgroup will continue working with stakeholders and bring recommendations back to a future meeting.

F. Senate Bill 402 (Mitchell) Pupil Health: Vision Examinations

Last Amended: May 4, 2015

Summary: Requires a pupil's vision to be examined by a physician, optometrist, or ophthalmologist, as specified, and requires the pupil's parent or guardian to provide the results of the examination to the pupil's school. This bill prohibits a school from denying admission to a pupil or taking any other adverse action against a pupil if his or her parent or guardian fails to provide the results of the examination. If the results of the examination are not provided to the school, this bill requires a pupil's vision to instead be appraised pursuant to existing law, as specified.

Status: Died

Recommended Position: None.

Recent Bill Analysis: 05/18/15- Senate Appropriations

Workgroup Update: As previously reported, the Board created a workgroup to work with stakeholders on this issue and present stronger legislation for the next legislative session. The workgroup, comprised of Rachel Michelin and Dr. Kawaguchi, met on February 18 and again on April 28 with stakeholders. Educators, optometrists, nurses, insurance agencies and youth advocates all came together to discuss the important issues facing children's vision. The workgroup's next meeting is scheduled in August and will address specific bill language and bring recommendations back to the Board.

G. Senate Bill 482 (Lara) Controlled Substances: CURES Database

Last Amended: April 7, 2016

Summary: This bill requires prescribers to consult the Controlled Substances Utilization Review and Evaluation System (CURES) prior to prescribing a Schedule II or III drug to a patient for the first time and delays implementation of this requirement until the Department of Justice (DOJ) certifies that the CURES database is ready for statewide use.

Status: From committee with author's amendments. Read second time and amended. Re-referred to Com. on RLS – 4/7/16

Recommendation: Support

Recent Board Analysis: 05/21/15- Senate Floor Analyses

Potential Board Impact: The impact to the Board would be minor. Licensees are already required to register on the CURES system. By adding the requirement to use the system, enforcement may see a slight increase for non-compliance. The Board previously discussed the CURES requirement and expressed frustration with the requirement for licensees to pay for and register in the system but no requirement to actually use the system. At that time, the Board discussed exploring future legislation to mandate optometrists use the system when prescribing controlled substances. Thus, this bill does what the Board believed needed to be done already.

H. Senate Bill 622 (Hernandez): Optometry

Last Amended: May 4, 2015

Summary: This bill would make various expansions in the scope of practice for optometrists and authorize certification in specified laser procedures, minor surgical procedures, and vaccinations.

Status: July 14 set for second hearing canceled at the request of author – 7/14/15

Recommendation: Maintain Support Position

Recent Bill Analysis: 07/13/15- Assembly Business And Professions

Potential Board Impact: While this bill increases the scope of optometrists, the way the bill is currently written, the impact to the Board is expected to be minor. BreEZe configuration changes would need to be done and minor regulations would need to be drafted to fully implement the bill.

I. Trailer Bill 201 Registered Dispensing Opticians Program Move

Last Amended: July 13, 2015

Summary: This bill would, notwithstanding any other law and in addition to any action available to the board, authorize the board to issue a citation containing an order of abatement and an order to pay an administrative fine, not to exceed $50,000, for a violation of a specified section of law. The bill would also delete the authorization to redact personal information from a lease agreement, and would, therefore, expand an existing crime resulting from imposition of a state-mandated local program.

Status: Scheduled to be heard during Assembly Budget Sub 4 Hearing on May 19, 2016

Recommendation: None at this time

During the February 2016 Board meeting, the Board requested the Executive Officer work with the Administration to include RDO fee language and approved inspection authority language into the trailer bill. However, it was decided the RDO Fees are more appropriate to be included in the DCA

fee bill (SB 1039). The Administration is still working on identifying the best vehicle for the inspection authority language.

In order to address concerns raised by the Assembly Budget Committee Chair and Committee staff regarding the $50,000 citation, the Board held a Special Meeting on May 13, 2016 and proposed additional amendments. The added amendments required factors to be considered when assessing the fine amount and clarified the citation process and appeal rights afforded to respondents.

However, on May 17, 2016, Board staff was notified that the Assembly Budget Committee Chair heard from additional members in his district and was no longer concerned. Therefore, the originally proposed fee citation language will most likely be approved without the amendments proposed during the May 13, 2016 meeting.

Staff will continue to provide updates as they become available.

Attachments:

1. Proposed RDO Fee Structure
2. Recommended technical amendments for Omnibus Bill

DRAFT

PROPOSED FEE STRUCTURE

1. Section 2549.6 of the Business and Professions Code is amended to read:

2549.6 The amount of fees prescribed in connection with the registration of nonresident contact lens sellers is that established by the following schedule:

(a) The application fee for a non-resident contact lens seller shall be a minimum of one hundred fifty dollars ($ 150) and shall not exceed one hundred sixty dollars ($160).

(~~a~~b) The initial registration fee shall be a minimum of ~~-~~ two hundred ~~one hundred~~ dollars ($200~~100~~) and not exceed two hundred forty dollars ($240).

(~~b~~c) The renewal fee shall be a minimum of two hundred ~~one hundred~~ dollars ($200 ~~100~~) and shall not exceed two hundred forty dollars ($240).

(~~c~~d) The delinquency fee shall be a minimum of fifty ~~twenty-five~~ dollars ($50 ~~25~~) and shall not exceed sixty dollars ($60).

(e~~d~~) The fee for replacement of a lost, stolen, or destroyed registration shall be twenty-five dollars ($25).

(f) The Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d).

(g~~e~~) The fees collected pursuant to this chapter shall be deposited in the Dispensing Opticians Fund, and shall be available, upon appropriation, to the State Board of Optometry for the purposes of this chapter.

2. Section 2565 of the Business and Professions Code is amended to read:

2565. The amount of fees prescribed in connection with the registration of dispensing opticians shall be as set forth in this section ~~. unless a lower fee is fixed by the division:~~

(a) The application fee for a registration shall be a minimum of one hundred fifty dollars ($150) and shall not exceed one hundred sixty dollars ($160).

(~~a~~b) The initial registration fee ~~is~~ shall be a minimum of two hundred ~~one hundred~~ dollars ($200~~100~~) and shall not exceed two hundred forty dollars ($240).

(b) The renewal fee ~~is~~ shall be a minimum of two hundred ~~one hundred~~ dollars ($200 ~~100~~) and shall not exceed two hundred forty dollars ($240)..

(c) The delinquency fee shall be a minimum of ~~is~~ fifty~~twenty-five~~ dollars ($50~~25~~) and shall not exceed sixty dollars ($60).~~.~~

(d) The fee for replacement of a lost, stolen, or destroyed certificate shall be ~~is~~ twenty-five dollars ($25).

(f) The Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d).

~~This section shall become operative on January 1, 1988.~~

3. Section 2566 of the Business and Professions Code is amended to read:

2566. The amount of fees prescribed in connection with certificates for contact lens dispensers, ~~unless a lower fee is fixed by the division,~~ is as follows:

DRAFT

(a) The application fee for a registered contact lens dispenser shall be a minimum of one hundred fifty ~~one hundred~~ dollars ($150~~00~~) and shall not exceed one hundred sixty dollars ($160).

(b) The initial registration fee shall be a minimum of two hundred dollars ($200) and shall not exceed two hundred forty dollars ($240).

(~~b~~c) The biennial fee for the renewal of certificates shall be a minimum of two hundred dollars ($200) and shall not exceed two hundred forty dollars ($240). ~~shall be fixed by the division in an amount not to exceed one hundred dollars ($100).~~

(d~~c~~) The delinquency fee ~~is twenty-five dollars~~ shall be a minimum of fifty dollars ($50~~25~~) and shall not exceed sixty dollars ($60).

(e~~d~~) The division may by regulation provide for a refund of a portion of the application fee to applicants who do not meet the requirements for registration.

(f) The Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d).

(g~~e~~) The fee for replacement of a lost, stolen, or destroyed certificate is twenty-five dollars ($25).

~~This section shall become operative on January 1, 1988.~~

4. Section 2566.1 of the Business and Professions Code is amended to read:

2566. The amount of fees prescribed in connection with certificates for spectacle lens dispensers shall be as set forth in this section ~~unless a lower fee is fixed by the division~~:

(a) The application for registration fee shall be a minimum of one hundred fifty dollars ($150) and shall not exceed one hundred sixty dollars ($160).

(b~~a~~) The initial registration fee shall be a minimum of ~~is~~ two hundred ~~one hundred~~ dollars ($200~~100~~) and shall not exceed two hundred forty dollars ($240).

(c~~b~~) The renewal fee shall be a minimum of two hundred ~~one hundred~~ dollars ($200 ~~100~~) and shall not exceed two hundred forty dollars ($240).

(d~~c~~) The delinquency fee ~~is~~ shall be a minimum of fifty ~~twenty-five~~ dollars ($50~~25~~) and shall not exceed sixty dollars ($60).

(e~~d~~) The fee for replacement of a lost, stolen or destroyed certificate is twenty-five dollars ($25)

(f) The Board of Optometry may periodically revise and fix by regulation the fees specified in subdivisions (a), (b), (c), and (d).

Recommended Amendments for Healing Arts Omnibus Bill

BPC § 27: (c)(16)

(a) Each entity specified in subdivisions (c), (d), and (e) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action, including accusations filed pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) In providing information on the Internet, each entity specified in subdivisions (c) and (d) shall comply with the Department of Consumer Affairs' guidelines for access to public records.

(c) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Board for Professional Engineers, Land Surveyors, and Geologists shall disclose information on its registrants and licensees.

(2) The Bureau of Automotive Repair shall disclose information on its licensees, including auto repair dealers, smog stations, lamp and brake stations, smog check technicians, and smog inspection certification stations.

(3) The Bureau of Electronic and Appliance Repair, Home Furnishings, and Thermal Insulation shall disclose information on its licensees and registrants, including major appliance repair dealers, combination dealers (electronic and appliance), electronic repair dealers, service contract sellers, and service contract administrators.

(4) The Cemetery and Funeral Bureau shall disclose information on its licensees, including cemetery brokers, cemetery salespersons, cemetery managers, crematory managers, cemetery authorities, crematories, cremated remains disposers, embalmers, funeral establishments, and funeral directors.

(5) The Professional Fiduciaries Bureau shall disclose information on its licensees.

(6) The Contractors' State License Board shall disclose information on its licensees and registrants in accordance with Chapter 9 (commencing with Section 7000) of Division 3. In addition to information related to licenses as specified in subdivision (a), the board shall also disclose information provided to the board by the Labor Commissioner pursuant to Section 98.9 of the Labor Code.

(7) The Bureau for Private Postsecondary Education shall disclose information on private postsecondary institutions under its jurisdiction, including disclosure of notices to comply issued pursuant to Section 94935 of the Education Code.

(8) The California Board of Accountancy shall disclose information on its licensees and registrants.

(9) The California Architects Board shall disclose information on its licensees, including architects and landscape architects.

(10) The State Athletic Commission shall disclose information on its licensees and registrants.
(11) The State Board of Barbering and Cosmetology shall disclose information on its licensees.
(12) The State Board of Guide Dogs for the Blind shall disclose information on its licensees and registrants.
(13) The Acupuncture Board shall disclose information on its licensees.
(14) The Board of Behavioral Sciences shall disclose information on its licensees, including licensed marriage and family therapists, licensed clinical social workers, licensed educational psychologists, and licensed professional clinical counselors.
(15) The Dental Board of California shall disclose information on its licensees.
(16) The State Board of Optometry shall disclose information ~~regarding certificates of registration to practice optometry, statements of licensure, optometric corporation registrations, branch office licenses, and fictitious name permits of its licensees.~~on its licensees and registrants.
(17) The Board of Psychology shall disclose information on its licensees, including psychologists, psychological assistants, and registered psychologists.
(d) The State Board of Chiropractic Examiners shall disclose information on its licensees.
(e) The Structural Pest Control Board shall disclose information on its licensees, including applicators, field representatives, and operators in the areas of fumigation, general pest and wood destroying pests and organisms, and wood roof cleaning and treatment.
(f) The Bureau of Medical Marijuana Regulation shall disclose information on its licensees.
(g) “Internet” for the purposes of this section has the meaning set forth in paragraph (6) of subdivision (f) of Section 17538.
(Amended by Stats. 2015, Ch. 689, Sec. 1. Effective January 1, 2016.)

BPC § 2545

(a) Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, an offense against this chapter, the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining the conduct on application of the State Board of Optometry, the Division of Licensing of the Medical Board of California, the Osteopathic Medical Board of California, the Attorney General, or the district attorney of the county.

The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.

(b) (1) Any person who violates any of the provisions of this chapter shall be subject to a fine of not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) per violation. The fines collected pursuant to this section from licensed physicians and surgeons ~~and registered dispensing opticians~~ shall be available upon appropriation to the Medical Board of California for the purposes of administration and enforcement. The fines collected pursuant to this section from licensed optometrists and registered dispensing opticians shall be deposited into the Optometry Fund and Registered Dispensing Optician Fund and shall be available upon appropriation to the State Board of Optometry for the purposes of administration and enforcement.

(2) The Medical Board of California and the State Board of Optometry shall adopt regulations implementing this section and shall consider the following factors, including, but not limited to, applicable enforcement penalties, prior conduct, gravity of the offense, and the manner in which complaints will be processed.

(3) The proceedings under this section shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
(Amended by Stats. 2002, Ch. 814, Sec. 3. Effective January 1, 2003.)

BPC § 2550
Individuals, corporations, and firms engaged in the business of filling prescriptions of physicians and surgeons licensed by the Division of Licensing of the Medical Board of California or optometrists licensed by the California State Board of Optometry for prescription lenses and kindred products, and, as incidental to the filling of those prescriptions, doing any or all of the following acts, either singly or in combination with others, taking facial measurements, fitting and adjusting those lenses and fitting and adjusting spectacle frames, shall be known as dispensing opticians and shall not engage in that business unless registered with the ~~Division of Licensing of the Medical Board of California~~California State Board of Optometry.
(Amended by Stats. 1993, Ch. 1267, Sec. 40. Effective January 1, 1994.)

BPC § 2550.1
~~All references in this chapter to the board or the Board of Medical Examiners or division shall mean the State Board of Optometry.~~
~~(Amended by Stats. 2015, Ch. 405, Sec. 5. Effective January 1, 2016.)~~

BPC § 3027
The board shall employ an executive officer and other necessary assistance in the carrying out of the provisions of this chapter.
The executive officer shall perform the duties delegated by the board and shall be responsible to it for the accomplishment of those duties. The executive officer shall not be a member of the board. With the approval of the Director of Finance, the board shall fix the salary of the executive officer. The executive officer shall be entitled to traveling and other necessary expenses in the performance of his or her duties.
(Amended by Stats. 2004, Ch. 426, Sec. 24. Effective January 1, 2005.)

BPC § 2554
Each registrant shall conspicuously and prominently display at each registered location the following consumer information:
"Eye doctors are required to provide patients with a copy of their ophthalmic lens prescriptions as follows:
Spectacle prescriptions: Release upon completion of exam.
Contact lens prescriptions: Release upon completion of exam or upon completion of the fitting process.
Patients may take their prescription to any eye doctor or registered dispensing optician to be filled.
Optometrists and registered dispensing opticians are regulated by the California State Board of Optometry. The California State Board of Optometry receives and investigates all consumer complaints involving the practice of optometry and registered dispensing opticians. Complaints involving a California-licensed optometrist or a registered dispensing optician should be directed to:
California State Board of Optometry
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
Website: www.optometry.ca.gov"
(Amended by Stats. 2015, Ch. 405, Sec. 6. Effective January 1, 2016.)

BPC § 2555.1
In the discretion of the ~~Division of Licensing~~California State Board of Optometry, a certificate issued hereunder may be suspended or revoked if an individual certificate holder or persons having any proprietary interest who will engage in dispensing operations, have been convicted of a crime substantially related to the qualifications, functions and duties of a dispensing optician. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.
A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a dispensing optician is deemed to be a conviction within the meaning of this article. The board may order the certificate suspended or revoked, or may decline to issue a certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.
The proceeding under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.
This section shall become operative on January 1, 1988.
(Amended by Stats. 1993, Ch. 1267, Sec. 42. Effective January 1, 1994.)

BPC § 2556.1
All licensed optometrists in a setting with a registered dispensing optician shall report the business relationship to the California State Board of Optometry, as determined by the board. The California State Board of Optometry shall have the authority to inspect any premises at which the business of a registered dispensing optician is co-located with the practice of an optometrist, for the purposes of determining compliance with Section 655. The inspection may include the review of any written lease agreement between the registered dispensing optician and the optometrist or between the optometrist and the health plan. Failure to comply with the inspection or any request for information by the board may subject the party to disciplinary action. The board shall provide a copy of its inspection results, if applicable, to the Department of Managed Health Care.
(Added by Stats. 2015, Ch. 405, Sec. 8. Effective January 1, 2016.)

BPC § 2558
Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail not less than 10 days nor more than one year, or by a fine of not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) or by both such fine and imprisonment.
The ~~Division of Licensing of the Medical Board of California~~ California State Board of Optometry may adopt, amend, or repeal, in accordance with the Administrative Procedure Act, any regulations as are reasonably necessary to carry out this chapter.
(Amended by Stats. 1993, Ch. 1267, Sec. 43. Effective January 1, 1994.)

BPC § 2559

Whenever any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of any provision of this chapter, or Chapter 5.4 (commencing with Section 2540), the superior court in and for the county wherein the acts or practices take place, or are about to take place, may issue an injunction, or other appropriate order, restraining such conduct on application of the ~~Division of Licensing of the Medical Board of California~~California State Board of Optometry, the Attorney General or the district attorney of the county.
The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure.
(Amended by Stats. 1993, Ch. 1267, Sec. 44. Effective January 1, 1994.)

BPC § 3004
As used in this chapter, "board" means the California State Board of Optometry.
(Added by Stats. 2004, Ch. 426, Sec. 4. Effective January 1, 2005.)

BPC § 3010.1
Protection of the public shall be the highest priority for the California State Board of Optometry in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount.
(Added by Stats. 2002, Ch. 107, Sec. 13. Effective January 1, 2003.)

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** May 27, 2016

From: Jessica Sieferman
Executive Officer **Telephone:** (916) 575-7184

Subject: **Agenda Item 11 – Discussion and Possible Action on Proposed Amendment to Title 16, CCR § 1523 Licensure and Examination Requirements – Update License Applications**

Currently, the Board utilizes two separate optometrist applications for those seeking licensure in California - a standard application (Attachment 1) and an out of state application (Attachment 2). However, staff has found these applications caused confusion for applicants, resulting in applicants completing the wrong form. In addition, the license application needs to be updated to reflect current law requiring the Board to inquire if the individual applying for licensure is serving in, or has previously served in, the military. Further, staff found one of the most frequent questions from new grads relates to the length of initial license period.

After a thorough review of licensing laws and processes, Board staff recommends consolidating the two forms into one and updating the form to reflect current law. Board staff believes this will help clarify requirements, streamline the licensing process and decrease licensing cycle times.

Action Requested:
Please review and consider approval of the the attached form (Attachment 3) and recommended amendments to CCR § 1523 (Attachment 4).

Agenda Item 11 Attachment 1

CALIFORNIA STATE BOARD OF OPTOMETRY

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov

APPLICATION FOR LICENSURE AS AN OPTOMETRIST

Cashiering and Board Use Only			
Receipt #	Payor ID #	Beneficiary ID #	Amount

APPLICANTS FOR LICENSURE WHO GRADUATED FROM AN ACCREDITED SCHOOL OR COLLEGE OF OPTOMETRY ON OR AFTER MAY 1, 2008 ARE ELIGIBLE FOR LICENSURE IN THE STATE OF CALIFORNIA AS A LICENSED OPTOMETRIST WITH CERTIFICATION TO USE THERAPEUTIC PHARMACEUTICAL AGENTS (TPA); CERTIFICATION TO PERFORM LACRIMAL IRRIGATION AND DILATION (TPL); AND CERTIFICATION TO DIAGNOSE AND TREAT PRIMARY OPEN ANGLE GLAUCOMA (TLG).

PLEASE READ THOROUGHLY, THE ENCLOSED ***INSTRUCTIONS FOR COMPLETING THE APPLICATION FOR OPTOMETRIST LICENSE*** BEFORE YOU BEGIN TO COMPLETE THE APPLICATION FORM. MAKE YOUR CHECK PAYABLE TO THE BOARD OF OPTOMETRY. PLEASE NOTE THAT THE REQUIRED FEE IS AN EVALUATION/PROCESSING FEE THAT IS NON-REFUNDABLE. PLEASE ALLOW 6 – 8 WEEKS FOR PROCESSING.

Total Fee Required $360.00

Fee Itemization:
License Application Fee $275.00
TPA Certification Fee $25.00
TPL Certification Fee $25.00
TPG Certification Fee $35.00

Please type or print clearly.

SOCIAL SECURITY NUMBER
☐☐☐-☐☐-☐☐☐☐

DATE OF BIRTH (MONTH/DATE/YEAR)
☐☐/☐☐/☐☐☐☐

NAME (LEGAL NAME ONLY)

_____ (LAST) _____ (FIRST) _____ (MIDDLE)

Other name(s) you are known by: _____

ADDRESS:
_____ (STREET) _____ (CITY) _____ (STATE) _____ (ZIP CODE)

PHONE NUMBER (____) _____ CELL PHONE NUMBER (____) _____

EMAIL ADDRESS:
_____

EDUCATION:
_____
NAME OF SCHOOL/COLLEGE OF OPTOMETRY

DATE DEGREE CONFERRED (MONTH/DATE/YEAR)
☐☐/☐☐/☐☐☐☐

LOCATION OF SCHOOL
_____ (CITY) _____ (STATE) _____ (COUNTRY)

HAVE YOU SUCCESSFULLY COMPLETED (PASSED) ALL SECTIONS (PARTS I, II, III) OF THE NBEO EXAMINATION? ☐ Yes ☐ No

PLEASE PROVIDE THE MONTH AND YEAR THAT YOU COMPLETED EACH OF THE EXAMINATIONS.

PART I (BASIC SCIENCE) _____ (MONTH) _____ (YEAR)

PART II (CLINICAL SCIENCE) _____ (MONTH) _____ (YEAR)

PART III (PATIENT CARE) _____ (MONTH) _____ (YEAR)

HAVE YOU SUCCESSFULLY COMPLETED (PASSED) THE CALIFORNIA LAW EXAMINATION? ☐ Yes ☐ No
PLEASE PROVIDE THE MONTH AND YEAR THAT YOU COMPLETED THE EXAMINATION. _____ _____
(MONTH) (YEAR)

HAVE YOU PREVIOUSLY APPLIED FOR LICENSURE TO PRACTICE OPTOMETRY IN CALIFORNIA? ☐ YES ☐ NO
IF YES, PLEASE PROVIDE THE MONTH AND YEAR OF THE APPLICATION: _____ _____
(MONTH) (YEAR)

DO YOU NOW OR HAVE YOU EVER HELD A LICENSE TO PRACTICE OPTOMETRY IN ANY OTHER STATE?
IF YES, PLEASE LIST EACH STATE AND LICENSE NUMBER BELOW: ☐ YES ☐ NO

_____ _____ _____
(State) (License #) (State) (License #) (State) (License #)

Important Notice: A letter of good standing must be sent directly to the California Board of Optometry from each State Licensing Board where you have held or currently hold a license.

HAVE YOU EVER BEEN DENIED A PROFESSIONAL LICENSE, HAD A PROFESSIONAL LICENSE PRIVILEGE SUSPENDED, REVOKED, OR OTHERWISE DISCIPLINED, or HAVE YOU EVER VOLUNTARILY SURRENDERED ANY SUCH LICENSE IN CALIFORNIA OR ANY OTHER STATE OR TERRITORY OF THE UNITED STATES, OR BY ANY OTHER GOVERNMENTAL AGENCY? ☐ YES ☐ NO

If YES, attach your detailed explanation of the circumstance surrounding the arrest/conviction or disciplinary proceedings taken by another state or governmental agency and attach any documentation (i.e., arrest report/court documents/accusations) that you may have.

HAVE YOU EVER BEEN CONVICTED OF, PLED GUILTY TO, OR PLED NOLO CONTENDERE TO ANY MISDEMEANOR OR FELONY? ☐ YES ☐ NO

If YES, attach your explanation and related documents as described in the REPORTING PRIOR CONVICTION(S) section of the instructions. You must disclose all convictions even if previously reported to the Board. However, it is not necessary for you to re-submit documentation previously on file, you may simply provide a written statement indicating that you believe the information is already on file.

(Convictions dismissed under Section 1203.4 of the Penal Code must be disclosed. You need not include offenses prior to your 18th Birthday. You may omit traffic infractions under $300 that did not involve alcohol, dangerous drugs, or controlled substances.

I declare under penalty of perjury under the laws of the State of California that all the information submitted on this form and on any accompanying attachments submitted is true and correct.

_____ _____
Signature of Applicant ***Date***

ATTACH ONE 2 X 2 COLOR PHOTOGRAPH TAKEN OF YOU WITHIN THE LAST 60 DAYS.

ATTACH COLOR PHOTO HERE

PHOTO IS TO BE HEAD AND SHOULDERS ONLY And of PASSPORT QUALITY

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
P (916) 575-7170 F (916) 575-7292 www.optometry.ca.gov

Cashiering and Board Use Only			
Receipt #	Payor ID #	Beneficiary ID #	Amount

APPLICATION FOR LICENSURE BY AN OUT OF STATE LICENSED OPTOMETRIST

FEE: $275

The following information is required under Sections 3044, 3045 & 3046 of the Business and Professions Code. All terms of information requested are mandatory. Failure to provide any of the requested information will result in the application being rejected as incomplete. The information provided will be used to determine qualification for licensure. The official responsible for the maintenance of this information is the Executive Officer. The information may be transferred to other interagency or intergovernmental agency, and/or enforcement agencies. Each individual has the right to review the files or records maintained on them by the agency, unless the records are identified as exempt from access as provided in Section 1798.40 et seq. of the Information Practices Act of the Civil Code.

All applicants are subject to fingerprinting for criminal background checks. If you are having your prints taken in California, you must use a Live scan form. You can download this form from the Board's web-site or you can request this form by marking √ the box titled "Live Scan Form." If you are having your prints taken outside of California, you must use a fingerprint card. If you need a fingerprint card, please mark √ the box titled "Fingerprint Card".

☐ Live Scan Form (California Only) ☐ Fingerprint Card (Out of State)

PLEASE TYPE OR PRINT CLEARLY

1. Name: (FIRST) (MIDDLE) (LAST)

Other name/s used: E-mail address: (_____)

2. Address: (NUMBER & STREET)

(CITY) (STATE) (ZIP) (TELEPHONE)

3. Date of Birth: (Mandatory)

_____
mm / dd / yyyy

4. Section 30 of the Business and Professions Code and Public Law 94-455 (42 USCA 405 (c)(2)(C) authorize collection of your SSN. Your SSN will be used exclusively for tax enforcement purposes, for purposes of compliance with any judgement or order for family support in accordance with Section 11350.6 of the Welfare and Institutions Code, or for verification of licensure or examination status by a licensing or examination entity that utilizes a national examination and where licensure is reciprocal with the requesting state. If you fail to disclose your SSN, you will be reported to the Franchise Tax Board, which may assess a $100 penalty against you.

☐ ☐ ☐ - ☐ ☐ - ☐ ☐ ☐ ☐ (Mandatory)

5. Education: Name(s) of School(s) or College(s) of Optometry attended

(NAME OF SCHOOL)

(DATE ENTERED) (DATE DEGREE CONFERRED)

6. Have you sat for the California Laws and Regulations Examination?
If yes, please provide the month and year of test administration. _____ _____ ☐ Yes ☐ No
mm yyyy

7. Please list the name, month and year of the examination administered to qualify you for licensure:

_____ _____
Name of Examination mm/yyyy

8. Please list all states in which you are licensed to practice optometry:

State: _____ Lic. No.: _____ ; State: _____ Lic. No.: _____

State: _____ Lic. No.: _____ ; State: _____ Lic. No.: _____

NOTE: A LETTER OF GOOD STANDING MUST BE SENT FROM EACH STATE BOARD IN WITH WHICH YOU ARE LICENSED DIRECTLY TO THE CALIFORNIA BOARD.

9. Please indicate if you have ever had a license to practice optometry denied, suspended, or subject to disciplinary action

☐ Yes ☐ No (If you marked "Yes, provide full details including charge(s), where (state or territory) and final Disposition on separate piece of paper and attach to this application.)

10. Please indicate if you, as a juvenile or adult, have ever been convicted of or plead nolo contendere to any violation of a U.S. statute, state statute or local ordinance, other than vehicle code offenses in which fines levied were less than $50.00 (Convictions dismissed pursuant to Section 1203.4 of the Penal Code must be disclosed)

☐ Yes ☐ No (If you marked "Yes", provide the full details of each offense, including nature, location and date of final disposition. Submit on a separate piece of paper with this application.

11. Please indicate whether you have met the 5,000 hours of practice requirement set forth in section 3057 of the California Business and Professions Code in five of the seven consecutive years preceding the date of this application.

☐ Yes ☐ No (If "Yes", you must fill out the Certification of 5,000 Practice Hours form (LBC-4) and submit along with this application)

12. Please indicate whether you have met TPA requirements set forth in section 3041.3 of the California Business and Professions Code.

☐ Yes ☐ No (If you marked "Yes", please refer to page two of the instructions for submitting documentation.)

13. Please indicate whether you have met the minimum continuing education requirements set forth in section 3059 of the California Business and Professions Code for the current and preceding year.

☐ Yes ☐ No (If you marked "Yes", please refer to page two of the instructions for submitting documentation.)

14. I declare under penalty of perjury under the laws of the State of California that the answers and information given by me in completing this application, and any attached sheets, are true and I understand and agree that any misstatements of material facts herein may be cause for the denial of this application or for subsequent suspension or revocation of a certificate of registration to practice optometry in California if one is granted to me. I further declare that my signature on this application authorizes the National Practitioner Data Bank, the Federal Drug Enforcement Agency, and any other law enforcement agency or jurisdictional entity to release any and all information required by the California Board of Optometry.

Signature of Applicant: _____ Date: _____

PHOTOS MUST HAVE BEEN TAKEN WITHIN THE LAST SIX MONTHS
USE TAPE DO NOT STAPLE

ATTACH
2" x 2"
PHOTOGRAPH
HERE

OPTOMETRIST LICENSE APPLICATION

****Shorten the processing time – Apply online at www.BreEZe.ca.gov****

Fee Schedule *The application fee is a non-refundable processing fee. Make checks payable to the California State Board of Optometry.*	
License Application	**$275**
TPA Certification	**$25**
TPL Certification	**$25**
TPG Certification	**$35**

Minimum Requirements:

☐ Applicable Fee(s)
☐ Completed Optometrist Application
☐ Transcripts from College/School of Optometry *(Directly from College/School)*
☐ Fingerprints:
- ☐ Live Scan Form (CA Only), *or*
- ☐ Two (2) Fingerprint Cards *($49 DOJ/FBI Fee*)

California resident applicants must complete the Live Scan fingerprint process. A copy of the completed *Request for Live Scan Service* form must be submitted with your application. Out of state residents may submit two completed fingerprint cards or visit a California Live Scan facility. *Fingerprint cards will be mailed to you once the Board receives your application and appropriate processing fees*. All personal data must be completed on the fingerprint cards. An optometrist license will not be issued until fingerprint results have been received from the Department of Justice and the Federal Bureau of Investigation.

Type or Print Legibly	PERSONAL INFORMATION			
1. Legal Name	Last	First	Middle	
2. Other Names/Aliases Used				
3. Social Security Number/Individual Taxpayer Identification Number			**4. Date of Birth (mm/dd/yyyy)**	
5. Address of Record (AOR)	**Your AOR is public information. Your AOR may be a Post Office (PO) box number or alternate address, instead of your home address.**			
Street	City	State	Zip Code	Country
6. Physical Mailing Address	**If you chose a PO Box or alternate address above, please provide a physical address for the Board's internal administrative use and not for public disclosure. A PO box may not be listed in this section.**			
Street	City	State	Zip Code	Country
7. Telephone Numbers	Home #	Work #	Cell #	
8. E-Mail Address				

9. Have you ever applied for a California Optometrist License?	☐Yes ☐No
10. Have you previously held a California Optometrists License? If yes, please provide the license number: _____ Expired:	☐Yes ☐No
11. Are you currently serving in, or have previously served in, the military? If applicable, date honorably discharged:	☐Yes ☐No
12. Is your spouse currently serving in, or have previously served in, the military? If applicable, date honorably discharged:	☐Yes ☐No

EXAMINATIONS

13. List all of the examinations you have taken: **NBEO** (Parts I, II, and/or III *including TMOD*) and/or **CLRE**

Examination	Date (mm/yyyy)	Result (Pass/Fail)

EDUCATION

14. Optometry School of Graduation	Location	Degree Issue Date
	City State	

OPTOMETRIST LICENSE

15. Have you ever held, or do you currently hold an optometrist license in any U.S. State or U.S. territory? If yes, list license information below and attach proof of meeting the minimum TPA requirements set forth in BPC § 3041.3 and continuing education requirements set forth in BPC § 3059 for the current and preceding year. ☐Yes ☐No

(List others on a separate piece of paper if needed.)

REQUIRED: A LETTER OF GOOD STANDING MUST BE SENT DIRECTLY FROM EACH STATE BOARD TO THE CALIFORNIA STATE BOARD OF OPTOMETRY

State	License Number	Issue Date	Expiration Date

DEA CERTIFICATION

16. Are you currently registered with the Drug Enforcement Agency (DEA)? ☐Yes ☐No

DEA Number	State of Issue	Expiration Date (mm/yyyy)

DISCIPLINARY HISTORY

These questions refer to discipline by any Military or Public Health Service, State Board, or other Governmental Agency of any U.S. state or territory. For each "yes" response, you must submit a descriptive explanation of the circumstances surrounding the discipline and copies of any documentation (e.g., Accusation, Disciplinary Order) you may have.

17. Have you ever been denied an optometrist or any other healing arts license?	☐Yes ☐No
18. Have you ever had an optometrist or any other healing arts license suspended, revoked, or placed on probation?	☐Yes ☐No
19. Have you ever surrendered an optometrist or any other healing arts license?	☐Yes ☐No

CRIMINAL RECORD HISTORY

Applicants who answer "NO" to the questions below, but have a previous conviction or plea, may have their application denied for knowingly falsifying the application. If in doubt as to whether a conviction should be disclosed, it is best to disclose the conviction on the application.

For each conviction disclosed, you must submit certified copies of the arresting agency report, certified copies of the court documents, including a plea form and court docket, and a signed and dated descriptive explanation of the circumstances surrounding the conviction of disciplinary action (i.e., dates and location of the incident and all circumstances surrounding the incident). If the documents were purged by the arresting agency and/or court, a letter of explanation from these agencies is required. In addition, you may submit evidence of rehabilitation.

20. Have you ever been convicted of, or pled guilty or nolo contendere to ANY offense in the United States or its territories? ***This includes every citation, infraction, misdemeanor and/or felony, including traffic violations. Convictions that were adjudicated in the juvenile court and/or traffic infractions under $300 that did not involve alcohol, drugs, or controlled substances should NOT be disclosed. Convictions that were later dismissed, expunged from the record of the court, or set aside pursuant to California Penal Code § 1203.4 or equivalent non-California law MUST be disclosed.***	☐Yes ☐No
21. Is any criminal action pending against you, or are you currently awaiting judgement and sentencing following entry of a plea or jury verdict?	☐Yes ☐No
22. Are you a registered sex offender?	☐Yes ☐No

PHOTOGRAPH

Photograph

Attach 2" X 2" Colored Photo Here

Photos must be recent and must be of your head and shoulder areas only.

Altered Photographs are NOT accepted.

DELAYED LICENSE ISSUANCE REQUEST

California Code of Regulations § 1525 specifies that an optometrist license expires at midnight on the last day of the licensee's birth month following its original issuance and thereafter at midnight on the last day of your birth month every two years if not renewed. If you are licensed in your birth month, your initial license will expire the following year. If you are licensed in a month other than your birth month, the term of your *initial license* will be less than 12-months.

Please indicate your preference by checking one of the options below:

☐	I would like to wait to be licensed until my birth month.
☐	I would like to be licensed as soon as my application is processed. I understand and acknowledge that my *initial license* will be valid for less than 12-months.

DECLARATION

23. I declare, under penalty of perjury under the laws of California, that the answers and information submitted on this form and any accompanying attachments are true and correct. I further declare that my signature on this application authorizes the Data Bank (formerly known as the National Practitioner Data Bank), the Federal Drug Enforcement Agency, and any other law enforcement agency or jurisdictional entity to release any and all information required by the California State Board of Optometry.

I UNDERSTAND THAT ANY OMISSION, FALSIFICATION, OR MISREPRESENTATION OF ANY ITEM RESPONSE ON THIS APPLICATION OR ANY ATTACHMENT HERETO IS A SUFFICIENT BASIS FOR DENYING OR REVOKING A LICENSE.

Applicant Signature: _____ Date: _____

IMPORTANT CONTINUING EDUCATION REQUIREMENTS

Any licensee who renews an active license for the first time is exempt from continuing education (CE) requirements if he or she graduated from an accredited school or college of optometry less than one year from the date of initial licensure.

If you graduated more than one year from the date of initial licensure, you are required to meet ALL minimum CE requirements, pursuant to California Code of Regulations § 1536. Failure to meet all CE requirements will result in your license not being renewed. It is your responsibility to know all laws governing the practice of optometry.

All terms of information requested are mandatory. Your Social Security Number or Individual Taxpayer Identification Number is required pursuant to Business and Professions Code § 30. Failure to provide any of the requested information will result in the application being rejected as incomplete. The information provided will be used to determine eligibility to take the examinations for an optometrist license and receive a California Optometrist License. The official responsible for the maintenance of this information is the Executive Officer. The information may be transferred to other government agencies, and/or law enforcement agencies. Each individual has the right to review the files or records maintained on them by the agency, unless the records are identified as exempt from access as provided in Section 1798.40 et seq. of the Civil Code.

16 CCR § 1523

§ 1523. Licensure and Examination Requirements.

(a)~~(1)~~ Application for licensure as an optometrist shall be made on a form prescribed by the Board (Form ~~39A~~OPT-1. Rev. ~~7-09~~5-16), which is hereby incorporated by reference, and shall show that the applicant is at least 18 years of age.

~~(2) Application for licensure by an out of state licensed optometrist as defined in Business and Professions Code Section 3057, shall be made on forms prescribed by the Board (Form OLA-2, Rev. 11/07 and Form LBC-4, rev. 2/07), which are hereby incorporated by reference, and shall show that the applicant is at least 18 years of age.~~

(b) An application shall be accompanied by the following:

(1) The fees fixed by the Board pursuant to Section 1524 in this Article.

(2) Satisfactory evidence of graduation from an accredited school or college of optometry approved by the Board, which must be provided by the school or college directly to the Board ~~.~~

(3) An electronic record of fingerprints or, for an out of state applicant, ~~O~~one classifiable set of fingerprints on a form provided by the Board.

(c) An incomplete application shall be returned to the applicant together with a statement setting forth the reason(s) for returning the application and indicating the amount of money, if any, which will be refunded.

(d) Each applicant must achieve passing grades in all Board required examinations before being granted a license to practice optometry.

(e) Permission to take the California Laws and Regulations Examination (CLRE) shall be granted to those applicants who have submitted a paid application.

(f) Licensure shall be contingent on the applicants passing the Clinical Skills portion of the National Board of Examiners in Optometry examination as provided in Section 1531 in this Article and passing the CLRE.

(g) Admission into the examinations shall not limit the Board's authority to seek from an applicant additional information deemed necessary to evaluate the applicant's qualifications for licensure.

Note: Authority cited: Sections 3025, 3044, 3045 and 3057, Business and Professions Code. Reference: Sections 3044, 3045 and 3057, Business and Professions Code.

HISTORY

1. New article 5 (sections 1523-1524) and section filed 5-12-97; operative 6-11-97 (Register 97, No. 20). For prior history, see Register 83, No. 44.
2. Amendment of section heading, redesignation of subsection (a) as new subsection (a)(1) and new subsection (a)(2), amendment of subsections (b)-(b)(1) and amendment of Note filed 11-7-2007; operative 11-7-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 45).
3. Amendment filed 2-8-2011; operative 3-10-2011 (Register 2011, No. 6).

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** May 27, 2016

From: Jessica Sieferman
Executive Officer **Telephone:** (916) 575-7184

Subject: **Agenda Item 12 – Discussion and Possible Action on Recommendations From the Practice Education Committee to Amend the Continuing Education Course Approval Request Form**

During the February 2016 Board meeting, the Board approved amendments to the Continuing Education (CE) Course Approval Request Form and delegated authority to the Practice and Education Committee to approve CE courses.

However, during the April 2016 Practice and Education Committee meeting, the Committee requested additional minor changes to the form in order to ensure the Committee receives the necessary information to determine whether a course meets the requirements specified in CCR § 1536.

Those requested changes will be reviewed by the Committee during its May 27, 2016 meeting (prior to the Board meeting) and brought to the Board for final approval.

CALIFORNIA STATE BOARD OF OPTOMETRY

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www.optometry.ca.gov

To: Board Members **Date:** May 27, 2016

From: Jessica Sieferman
Executive Officer **Telephone:** (916) 575-7184

Subject: **Agenda Item 13 – Future Agenda Items**

The Board may discuss and decide whether to place a matter on the agenda of a future meeting. Future agenda items currently include, but are not limited to, the following:

- Staff Outreach for CE at schools
- Control over scope of practice – what other states are doing
- Revising Business and Profession Code Section 3077: Branch Office License
- Minimum Certification (TPA) Requirements to Practice Optometry in California
- Strategic Plan Revisions
- Sunset Report
- Board Members Participating in ARBO Activities
- Elections of Officers
- Dispensing Optician Committee Appointments

CALIFORNIA STATE BOARD OF OPTOMETRY

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To: Board Members **Date:** May 27, 2016

From: Robert Stephanopoulos
Assistant Executive Officer **Telephone:** (916) 575-7185

Subject: **Agenda Item 14 - Petition for Reduction of Penalty and Early Termination of Probation**

A. Dr. Richard Armstrong, OD, License No. 9196

Dr. Richard Paul Armstrong, O.D. (Petitioner) was issued Optometrist License Number 9196 by the Board on August 17, 1989. On August 5, 2013, the Board filed an Accusation against Petitioner charging him with violations of laws and regulations based on a Conviction of a Substantially Related Crime; Dangerous Use of Alcohol, Controlled Substances, and Dangerous Drugs; Any Action that would have Warranted the Denial of a License; and Violating or Attempting to Violate Provisions of the Chapter. On April 1, 2015, Petitioner's license was revoked, the revocation was stayed and Petitioner's license was placed on probation for three (3) years, subject to certain terms and conditions.

The Petitioner is requesting the Board to grant his Petition for Reduction of Penalty and Early Termination of Probation.

Attached are the following documents submitted for the Board's consideration in the above referenced matter:

1. Petition for Reduction of Penalty and Early Termination of Probation
2. Copies of the Final Decision After Rejection of Proposed Decision, Order Fixing Date of Submission of Written Argument, Order of Rejection of Proposed Decision, Proposed Decision, and Accusation
3. Certification of Licensure

STATE BOARD OF OPTOMETRY
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PETITION FOR REDUCTION OF PENALTY OR EARLY TERMINATION OF PROBATION

No petition for reduction of penalty or early termination of probation will be entertained until one year after the effective date of the Board's disciplinary action. The decision of the petition will be made by the full Board and in accordance with the attached standards for reinstatement or reduction of penalty. Early release from probation or a modification of the terms of probation will be provided only in exceptional circumstances, such as when the Board determines that the penalty or probationary terms imposed have been excessive, considering both the violation of law charged and the supporting evidence, or when there is substantive evidence that there is no more need for the degree of probationary supervision as set forth in the original terms and conditions. As a rule, no reduction of penalty or early termination of probation will be granted unless the probationer has at all times been in compliance with the terms of probation.

PLEASE TYPE OR PRINT LEGIBLY

1. NAME (FIRST) Richard	(MIDDLE) Paul	(LAST) Armstrong	CERTIFICATE OF REGISTRATION NO. 91961
2. ADDRESS (NUMBER) 25907	(STREET) Pueblo Dr.		DATE OF BIRTH 12/28/1961
(CITY) Valencia	(STATE) CA	(ZIP CODE) 91355	TELEPHONE (661)753-3387
3. PHYSICAL DESCRIPTION	(HEIGHT) 6'	(WEIGHT) 160 lbs.	(EYE COLOR) Blue / (HAIR COLOR) Silver/Black

4. EDUCATION: NAME(S) OF SCHOOL(S) OR COLLEGE(S) OF OPTOMETRY ATTENDED

NAME OF SCHOOL Southern California College of Optometry		
ADDRESS (NUMBER) 2575	(STREET) Yorba Linda Blvd.	
(CITY) Fullerton	(STATE) CA	(ZIP CODE) 92631-1699

5. ARE YOU CURRENTLY LICENSED IN ANY OTHER STATE? ☐ YES ☑ NO

STATE	LICENSE NO.	ISSUE DATE	EXPIRATION DATE	LICENSE STATUS

6. List locations, dates, and types of practice for 5 years prior to discipline of your California license.

LOCATION	DATE FROM	DATE TO	TYPE OF PRACTICE
See attached sheet			

39M-12

7. Are you or have you ever been addicted to the use of narcotics or alcohol? ☐ YES ☑ NO

8. Are you or have you ever suffered from a contagious disease? ☐ YES ☑ NO

9. Are you or have you ever been under observation or treatment for mental disorders, alcoholism or narcotic addiction? ☑ YES ☐ NO

10. Have you ever been arrested, convicted or pled no contest to a violation of any law of a foreign country, the United States, any state, or a local ordinance? you must include all convictions, including those that have been set aside under Penal Code Section 1203.4 (which includes diversion programs) ☑ YES ☐ NO

11. Are you now on probation or parole for any criminal or administrative violations in this state or any other state? (Attach certified copies of all disciplinary or court documents) ☐ YES ☑ NO

12. Have you ever had disciplinary action taken against your optometric license in this state or any other state? ☑ YES ☐ NO

IF YOU ANSWERED YES TO ANY OF THE ABOVE QUESTIONS, YOU MUST ATTACHMENT A STATEMENT OF EXPLANATION GIVING FULL DETAILS.

ON A SEPARATE SHEET OF PAPER PROVIDE THE FOLLOWING INFORMATION

13. List the date of disciplinary action taken against your license and explain fully the cause of the disciplinary action.

14. Explain fully why you feel your license should be restored, or the disciplinary penalty reduced.

15. Describe in detail your activities and occupation since the date of the disciplinary action; include dates, employers and locations.

16. Describe any rehabilitative or corrective measures you have taken since your license was disciplined to support your petition.

17. List all post-graduate or refresher courses, with dates, location and type of course, you have taken since your license was disciplined.

18. List all optometric literature you have studied during the last year.

19. List all continuing education courses you have completed since your license was disciplined.

20. List names, addresses and telephone numbers of persons submitting letters of recommendation accompanying this petition.

I declare under penalty of perjury under the laws of the State of California that the answers and information given by me in completing this petition, and any attachments, are true and I understand and agree that any misstatements of material facts will be cause for the rejection of this petition.

Date April 26, 2016 Signature [illegible]

All items of information requested in this petition are mandatory. Failure to provide any of the requested information will result in the petition being rejected as incomplete. The information will be used to determine qualifications for reinstatement, reduction of penalty or early termination of probation. The person responsible for information maintenance is the Executive Officer of the Board of Optometry at 2420 Del Paso Road, Suite 255, Sacramento, California, 95834. This information may be transferred to another governmental agency such as a law enforcement agency, if necessary to perform its duties. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified confidential information and exempted by Section 1798.3 of the Civil Code.

Work History May 2007 to April 2016

- May 2007 – Sept 9, 2011 (Full-time)

Wolstan and Goldberg Eye Associates (Ophthalmology Group)

23600 Telo Ave. Suite 100

Torrance, CA 90505

(310) 543-2611

- Jan. 11, 2011 – Oct. 31, 2012 (PT and FT)

University of California, Los Angeles (University student health clinic)

Arthur Ashe Student Health and Wellness Center

Box 951703 Campus Code 170306

Los Angeles, CA 90095-1703

(310) 267-4608

- Dec 2012 – Oct 2013 (Full-time)

Santa Clarita Vision Center (Optometry)

26506 Bouquet Canyon Rd. (4 days/wk)

Saugus, CA 91350

(661) 297-2020

Sylmar Vision Center (Optometry)

12737 Glenoaks Blvd., Suite #3 (1 day/wk)

Sylmar, CA 91342

(818) 574-7350

- <u>Jan 2014 – Jan 2015</u> (Part-time)

Target Optical - Richard Rojo, O.D. (Optometry)

187 S. Pacific Ave. (1 day/wk)

Ventura, CA 93001

- <u>Sept 1989 – Present</u> (PT and FT)

Since beginning my career I have been employed, either full-time or as a casual on-call, by Eyexam 2000 later to become Eyexam of California. It is an excellent institution and provides the public with quality healthcare services. The quality of the healthcare I have provided to patients has never been called in to question by Eyexam of California or any other employer.

While working at private practices I continued to work at Eyexam of California always with the knowledge of my private employers. I always make sure I work in areas that do not conflict with private practice that employ me.

In the past five years I have worked from Orange County, Palm Springs, San Bernardino, Redding, and Salinas, to the South Bay and in between. I have worked as on-call and full-time and currently work as a full-time associate since July 2014. My 26 year history with the company and familiarity with many of the personal make it easy to place me into a variety of offices. I am not a fast doctor but the office staff often tell me patients respond enthusiastically and appreciate the personal service I provide.

I live in Valencia and work around this area but accept special assignments. From April to Sept. 2015 I filled in at the Santa Maria location 5 days a week requiring me to live in a hotel during the week. I used this opportunity to read extensively and train in swimming.

In the last year I swam 9,500 laps, the equivalent to 268 miles.

I have also done extended stays in Salinas, Redding and Palm Springs in the last two years requiring months of travel. I use these opportunities to get to know different parts of our state and the variety of people living here.

I currently have eight Statement of Licensure since renewing in December.

Eyexam of California locations covered 2010 -2015

#1373 Palmdale

1333 West Rancho Vista Blvd., Ste. 737

Palmdale, CA 93551

Ph. 661-575-9099

#0462 Lancaster

44414 Valley Central Way

Lancaster, CA 93536

Ph. 661-723-5381

#5118 Simi Valley

1555 Simi Valley Toen Center, Ste 265

Simi Valley, CA 93062

Ph. 805-577-0255

#0378 Ventura

3301 E. Main St., Ste. 1006

Ventura, CA 93003

Ph. 805-650-8477

#0501 Sherman Oaks

14006 Riverside Dr., Ste. 274

Sherman Oaks, CA 91423

Ph. 818-461-0635

#1186 Glendale

1101 Glendale Galleria

Glendale, CA 91210

Ph. 818-552-4450

#0087 Northridge

9027-A Tampa Ave.

Northridge, CA 91324

Ph. 818-349-7617

#0790 Northridge Fashion Center

9301 Tampa Ave.

Northridge, CA 91324

Ph. 818-885-7215

#580 Westside Pavillion

10767 W. Pico Blvd.

Los Angeles, CA 90064

Ph. 310-441-4215

#0885 Palm Desert

72840 Highway 111 Sp. F201

Palm Desert, CA 92260

Ph. 760-776-5911

#1320 Beverly Plaza

8471 Beverly Blvd., Ste. 105

Los Angeles, CA 90048

Ph. 310-360-8220

#0491 Santa Maria

363 Town Center East, Sp. G73

Santa Maria, CA 93454

Ph. 805-928-1921

#0085 Redondo Beach

1760 S. Pacific Coast Hwy.

Redondo Beach, CA 90277

Ph. 310-540-3787

#0819 Redondo Beach

1815 Hawthorne Blvd., #236

Redondo Beach, CA 90278

Ph. 310-370-9598

#0177 Torrance

21712 Hawthorne Blvd.,Ste.310-B

Torrance, CA 90503

Ph. 310-370-0016

#5783 Torrance

21712 Hawthorne Blvd., Ste. 280

Torrance, CA 90503

Ph. 310-371-5761

#1625 Victorville

14400 Bear Valley Rd., Sp. 357/359

Victorville, CA 92329

Ph. 760-241-7856

#111261 Devlyn Palmdale

23360 20th Street East

Palmdale, CA 93550

Ph. 661-200-0781

#0560 Redding

900 Dana Dr., Sp. A5

Redding, CA 96003

Ph. 530-221-6651

#0511 Salinas

670 Northridge Mall, Sp. F8

Salinas, CA 93906

Ph. 831-443-5250

#0493 Santa Barbara

3855 State Street

Santa Barbara, CA 93105

Ph. 805-682-9417

#2698 Figueroa

735 Figueroa St., Sp. 137

Los Angeles, CA 90017

Ph. 213-622-0257

Question #9

Yes, I was diagnosed with mild clinical depression in the late 90's. I started taking an antidepressant at the time and have ever since. At various times since I have met with a therapist, usually during very stressful periods, (e.g. divorce, parent's death).

Question #10

I have been arrested once in my life. For this arrest on Sept 11, 2010 I plead on contest and was convicted of a violation of Vehicle Code Section 23152(a) on April 15, 2011. I was granted a summary probation of 36 months, paid a fine, fees and costs of $1738 and performed community service. My driving privileges were suspended for 30 days. I also the completed DMV required High Gain program and my car was fitted with a Guardian Interlock Ignition System for three months.

It was for this arrest and conviction I received this disciplinary action.

Other than a few highway speeding tickets, I have never had any violations or legal issues, ever.

Question #12

Yes, the only disciplinary action ever taken is being addressed by this probation. This is the one and only time I have ever had action taken against my license. I have only practiced in the state of California except for two days in Mexico during a charitable eye clinic.

Question #13

On August 5, 2013 the Board of Optometry filed an accusation and sent notification to me. Having no experience in legal documents or matters I retained the services of the lawyer who handled my DUI. She began negotiations with the Board of Optometry and this led to an Administrative hearing with Judge Humberto Flores. The Board rejected the Judge's Proposed Decision. On March 2, 2015 a final decision was signed by The Board of Optometry and my probation began on April 1, 2015.

The accusation was made regarding my actions the morning of September 11, 2010. I was arrested for a DUI when my car hit a curb and then a post at 1 a.m. It was the unfortunate result of using sleep aids, including Ambien, preceded by several glasses of wine earlier that evening.

I had been struggling with significant back pain after an excessive work schedule for three weeks exacerbating a spinal injury. The injury occurred in college while training for diving on a trampoline. I had taken pain medication (hydrocodon) after finishing with my patients much earlier in the day. I stopped by the office of my physical therapist in an attempt to get some relief from the muscle spasms in my back but she was booked up. After leaving her office I went home and opened a bottle of wine and grilled a steak on the BBQ. I had been trying to contact a friend but wasn't able to get in touch with her throughout the evening. Our relationship had been strained in the last few weeks. I went to bed early, 10 pm, but I was unable to sleep due my back discomfort and the stress of the faltering relationship. Around 11 pm I took an Ambien. I had no plans the next morning and knew I would not be seeing any patients for the next couple of days. Around midnight I was contacted by text message that my friend wanted to meet me to talk. I got out of bed, dressed and went down to Redondo Beach to meet my friend. This is only a four mile drive and I had driven it twice a day to work for over a decade. I have driven this route many times just getting around town. The friend was not where she said she would be and while waiting I had a glass of wine then drove home. On the drive back a car pressed pass me on the right at the "Y" intersection causing me to swerve left and hit the curb on the center median striking the wooden post and flag. The sign on the post came down and struck my windshield cracking it.

There was damage to the tire and bottom of the car as well as the windshield. No other cars were involved because I avoided the collision with the car on the right. I was not injured but I was shaken from the impact. The local police station for Rolling Hills Estates is three blocks from the intersection and officers were at the scene within minutes. I failed a field sobriety test and was taken for a blood test after admitting to taking a medication earlier in the day. I was booked for a DUI and stayed in the Police station until released later that morning.

The only drugs detected in my system that night were medications, trace amounts of hydrocodone and a measurable amount of Diazepam, both prescribed by my physician. Written copies for those prescriptions were produced in court as requested. I understand I should not have been drinking wine so soon after taking those medications. I should not have left my bed or attempted to drive. I do not take medication frivolously. I am not a substantial or habitual drinker. Getting behind the wheel after taking the Ambien was

done without clear thinking. I would never have crawled out of bed with a sore back or answered a text message that late at night had it not been for unusual circumstances. But it happened and it is my mistake. There was not a collision with another vehicle. I was shaken but not injured. My car sustained damage and repairs were covered by my insurance. The city fixed the sign and flag.

Question #14

From the time of my accident and arrest I notified my employers and kept them aware of my situation. I notified Drs. Wolstan and Goldberg, later the management at Eyexam of California, and the staff at UCLA when I was being interviewed. The Board of Optometry was notified about the DUI within three weeks of the accident and arrest. My attorney kept the Board informed of my progress through the legal system and during various phases of my rehabilitation required by the court and the DMV. I have been completely honest and transparent throughout this process. I have worked to maintain compliance at every instance with my probation. I made multiple copies and sent quarterly reports in to the Board using FedEx, fax and email to ensure they arrive in time. I have paid my monthly monitoring fee early and cashed in a retirement account to pay the substantial investigation fee before the first year was concluded. Like my enormous student loan debts, I felt it important to pay it all and as soon as possible.

My current status with a probationary License prohibits me from working in many practices because I cannot be paneled on some insurance programs, (i.e., VSP.) I know a stigma accompanies a probationary status and this has caused me to refrain from applying for other positions. My current employment with Eyexam of California will soon be limited by recent changes enacted the by the California legislature. The transition to a sub-leasing system at Eyexam of California will soon make employment untenable and many good conscientious optometrists with that company will lose their benefits. I will no longer have company health, dental or life insurance. I will no longer earn vacation time. My current retirement account and pension will be discontinued. I believe this recent law will have a detrimental affect on my compensation, insurance, and retirement program. By changing my probationary status now I will have a chance to seek out new positions and apply without the obvious handicap of a probationary license. This summer the new graduates will be released into the market and diminish job prospects ever further for mature doctors seeking positions. A delay now will have a significant effect for someone like myself in six months. It was nearly six years ago when I made a terrible mistake of drinking some wine one night when I had taken medication. I never had a mark on my record before then and I have never had an incident since. I have never allowed my health to adversely affect patient care. It has, in some ways, made me more empathetic to patient circumstances and to recognize drug mismanagement.

I am deep sorry for the error I made that night and it is a subject I have discussed with my sons and a few close personal friends. It is still something I find very shameful and I am hopeful I will be putting the last legal hurdle behind me. I know that I will always have this arrest on my record and it will forever follow me but I am hopeful I will be able to move beyond this professionally. I hope I can end my career as I began it, with the dignity I have always tried to reflect of our profession.

I request that The Board of Optometry give serious consideration to granting an early termination to my probation for this and for the other reasonable issues I have pointed out here.

Question #15

Occupation and Activities Since Disciplinary Action

I have continued to practice as an Optometrist since the disciplinary action. My employer at the time I initially received the accusation from the Board of Optometry laid me off without giving a reason, but I think I know why. If my license was changed to probationary status I would not be allowed on the VSP insurance panel. VSP was a significant part of his practice and would not make me a viable practitioner for his business. This was in Oct. 2013.

2013

- Aug – Oct. 2013

The Santa Clarita Vision Center (W, Th, F, S)

The Sylmar Vision Center (Tue)

Since November 2013 until present I have worked for Eyexam of California as an Associate Doctor in multiple locations as needed. I have always known I could provide quality and comprehensive eye care while there. The equipment has always been in very good condition and state of the art. I am allowed to fit the contacts I think are most appropriate and have never felt pressure to push a specific product to promote profits.

- Eyexam of California

- November 2013

  Eyexam of California (Location – date)

  Lancaster - 2, 7, 9

  Glendale - 4, 11

  Victorville - 5

  West L.A. - 6, 19, 25, 26, 27, 29

  Santa Barbara - 10, 23, 24

  Simi Valley – 15, 20

  Canoga Park – 17, 18

  Pasadena – 22

  Torrance – 30

- December 2013

  Eyexam of California (Location – date)

  Lancaster - 7, 11, 17

  Figueroa – 8, 19

  Victorville - 2

  West L.A. – 3, 5, 6, 9, 10, 12, 20, 24, 26, 30, 31

  Santa Barbara – 1, 15, 23

  Sherman Oaks - 29

  Palmdale – 14, 16

  Torrance – 22, 27

2014

- January 2014

  Eyexam of California (Location – date)

  Lancaster – 11, 27

  Victorville - 12

  West L.A. – 2, 3, 20, 23, 24, 25

  Santa Barbara - 10, 23, 24

  Simi Valley – 1, 26

  Northridge - 9

  Redondo Beach - 10

  Torrance – 4, 8, 21

  Figueroa – 26

- February 2014

Eyexam of California (Location – date)

Lancaster – 12, 15, 17, 19, 22, 26

Glendale - 21

West L.A. – 3, 4, 6, 7, 17, 20, 28

Simi Valley – 16, 23, 27

Century City - 10, 18, 19, 20

Figueroa – 9

Feburary 25 Training for Target Optical

- March 2014

Eyexam of California (Location – date)

Lancaster – 5, 8, 12, 15, 19, 22, 23

Palmdale - 7

Victorville – 6, 13, 14, 20

Santa Barbara - 9

Simi Valley – 21

Northridge - 16

Pasadena – 11

Target Optical Ventura - 3, 10, 24, 31

- April 2014

Eyexam of California – Salinas (T, W, Th, F, S) all month

Target Optical Ventura – 7, 14, 21, 26

- May 2014

  Eyexam of California – Salinas (T, W, Th, F, S) all month

  Target Optical Ventura – 5, 12, 19, 26,

- June 2014

  Eyexam of California – Salinas (T, W, Th, F, S) all month

  Target Optical Ventura – 2, 9, 16, 23, 30

- July 2014

  Eyexam of California – Salinas (T, W, Th, F, S) 7/1 - 5

  Eyexam of California – Redding (T, W, Th, F, S) 7/8 – 31

  Target Optical Ventura – 7, 14, 21, 28

- August 2014

  Eyexam of California (Location – date)

  Redding (T, W, Th, F, S) all month

  Redondo Beach – 10, 17

  Target Optical Ventura – 11, 18, 25

- September 2014

  Eyexam of California (Location – date)

  Redding (T, W, Th, F, S) 9/1 – 18

  Redondo Beach – 21

  West L.A. – 20, 25, 26

  Target Optical Ventura – 1, 8, 15,

- October 2014

  Eyexam of California – Palm Desert (T, W, Th, F, S) 10/13 - 31

  Target Optical Ventura – 6, 13, 20, 27

- November 2014

  Eyexam of California (Location – date)

  Palm Desert (T, W, Th, F, S) 1 – 26

  Lancaster – 29

  Palmdale – 9, 16, 23

  Target Optical Ventura – 10, 17, 24,

- December 2014

  Eyexam of California (Location – date)

  Lancaster – 26, 27, 30

  Palmdale – 19, 20, 21

  Northridge – 13, 24

  Sherman Oaks – 14

  West L.A. – 18

  Torrance – 23, 28, 31

  Target Optical Ventura – 1, 15, 22, 29

2015

- January 2015

Eyexam of California (Location – date)

Lancaster – 10, 17

Palmdale – 3, 6, 7, 9, 11, 13, 14, 16, 18, 20, 21, 23, 24, 25, 27, 28, 30, 31

Redondo Beach – 1

Target Optical Ventura – 5, 12, 19, 26

- February 2015

Eyexam of California (Location – date)

Ventura – 5, 6, 12, 19, 20,

Palmdale – 1, 2, 7, 8, 9, 14, 15, 16, 28

** One Sight Charitable Mission – Santa Ana 23 – 28 (All week)

- March 2015

Eyexam of California (Location – date)

Ventura – 5, 6, 12, 13, 19, 20, 26

Palmdale – 2, 7, 8, 9, 14, 15, 16, 21, 22, 23, 29, 30

Lancaster – 1

Northridge – 27, 28

- April 2015

  Eyexam of California (Location – date)

  Ventura – 2, 3

  Palmdale – 4

  Northridge – 9

  Santa Maria - (T, W, Th, F, S) 10 - 30

- May 2015

  Eyexam of California

  Santa Maria – (T, W, Th, F, S) all month

- June 2015

  Eyexam of California

  Santa Maria – (T, W, Th, F, S) all month

- July 2015

  Eyexam of California

  Santa Maria – (T, W, Th, F, S) all month

- August 2015

  Eyexam of California

  Santa Maria – (T, W, Th, F, S) all month

- September 2015

Eyexam of California (Location – date)

Santa Maria – 1, 2, 7, 8, 9

Palmdale – 27, 30

Devlyn Palmdale – 21, 22, 25, 29, 30

- October 2015

Eyexam of California (Location – date)

Palmdale – 11, 18, 25

Devlyn Palmdale – 7, 9, 12, 14, 16, 19, 21, 23, 26, 28

Glendale – 3

Northridge – 8

Sherman Oaks – 5, 17, 31

West L.A. – 10

- November 2015

Eyexam of California (Location – date)

Palmdale – 1, 8, 15, 29

Devlyn Palmdale – 2, 4, 6, 9, 13, 16, 18, 20, 23, 25, 27, 30

Redondo Beach – 7, 19

Lancaster - 28

Topanga Canyon – 11

Sherman Oaks – 5, 17, 31

West L.A. – 14

- December 2015

Eyexam of California (Location – date)

Palmdale – 6, 13, 20, 26, 29, 30

Devlyn Palmdale – 2, 4, 7, 9, 11, 14, 16, 18, 23

Glendale – 31

Northridge – 17

Lancaster - 29

West L.A. – 14

Simi Valley – 5, 27

Beverly Center – 21

Venutra – 19

2016

- January 2016

Eyexam of California (Location – date)

Palmdale – 2, 3, 10, 17, 24, 31

Devlyn Palmdale – 6, 7, 13, 15, 20, 25, 27, 29

Glendale – 31

Northridge – 17

Lancaster – 4, 9, 11, 18,

Ventura – 22

Simi Valley – 1, 16

Redondo Beach – 23

- February 2016

  Eyexam of California (Location – date)

  Palmdale – 7, 14, 21, 28

  Devlyn Palmdale – 1, 5, 8, 12, 22, 26, 29

  Glendale – 13, 15

  Ventura – 4, 11, 18, 19, 25,

  Sherman Oaks - 27

  Redondo Beach – 20

  Simi Valley – 6

- March 2016

  Eyexam of California (Location – date)

  Palmdale – 6, 18, 20, 28

  Devlyn Palmdale – 7

  Glendale – 25

  Sherman Oaks – 5,

  Lancaster – 13, 19

  Ventura – 3, 10, 17, 24, 31

  Simi Valley – 11, 12, 14, 22, 26, 29

  Valencia – 4

- April 2016

Eyexam of California (Location – date)

Palmdale – 3, 15, 17, 24

Devlyn Palmdale – 18

Ventura – 7, 14, 21

Sherman Oaks – 2, 16, 23

Lancaster – 9

Simi Valley – 5, 6, 12, 13, 19

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Angels For Sight Foundation

If anything truly rewarding has come from all of this it would have to be my participation and association with Shea Hamilton and her Angels for Sight Foundation in Compton, CA. Ms. Hamilton runs the Angels For Sight clinic that provides eye care and prescription eyewear in a community that is often struggling with unemployment, homelessness and social issues I cannot begin to appreciate. Ms. Hamilton has been extremely supportive and encouraging in my effort to meet the requirements of my probation. My job has taken my out of town for weeks and months on extended stays where I come home for only a day or two during the week. She has been flexible in scheduling the days I could come in to help out in the clinic every month. She is always cheerful when I come in and interested in how my week is going, how is my family, what have I been doing? She has never made me feel self conscious for fulfilling a requirement of probation. In turn it has made it such a rewarding experience it is worth the four to five hours drive on those days to help her patients. I come in to the clinic and she has the patients organized for the whole day. I am not rushed through seeing them. On the couple of times I thought I could repair or maintain a piece of equipment she made sure I had the tools necessary or asked if she should have a repair person come out. The needs of many of the patients are fulfilled and they receive services they might never receive through other channels. The health status and needs of some patients exceed the capabilities in the clinic and referral out is necessary. On the couple of times I thought I could repair or maintain a piece of equipment she made sure I had the tools necessary or asked if she should have a repair person come out.

Ms. Hamilton's coordination of the vision clinic for the "12th Annual Compton Veterans Stand Down" was impressive. The services provided by the fair included Employment, Legal and housing assistance, medical and mental health care, food and even hot showers. It was an honor to participate with many other doctors in helping the veterans and their families. The patients were very appreciative as all of Ms. Hamilton's clients are when they receive care. It was an exciting and extremely warm day. Next year I will be sure to dress in lighter clothing.

And there will be a next year. Regardless of the status of my probation and any requirements I have to fulfill it is my intention to continue to support the Angel for Sight clinic by returning. A population exists in these communities where a reliable and functioning pair of eyewear is simply beyond a person's means. The health care system does not exist to provide a prescription for the glasses. I am glad I have become part of a solution to this issue. It is a cause worthy of attention.

I would like to thank Robert Stephanopoulos for mentioning this clinic when I asked him for some idea where I could fulfill my probation requirements for community service providing optometric services.

The OneSight Foundation

The “OneSight” charitable vision organization provides free vision care to people in need all around the world. Patients receive comprehensive examinations and quality eyewear at no cost and sometimes in areas wear services are simply not available. From around the United States and around the world, it brings together professionals from different disciplines within the optical industry to work with the local community to help those with unmet visual needs.

I have worked with OneSight in the past and know many doctors who have volunteered both locally and traveled to international missions. Many have found it to be profoundly rewarding and life changing. The mission I participated in 2015, The Santa Ana Mission, was a special event for me. After applying for consideration to participate on a larger scale previous, I was chosen as a core doctor. This meant I would be involved in the daily set up, facilitation and break down of the clinic for the duration of the week. There was an Optometric director, David Haitz, O.D. and one other core doctor, Kristin Kaneko, O.D. and myself. I had known both doctors prior to this mission but our friendship was extended and strengthened after our week together. Both have been veterans of muliple missions both domestically and internationally. I have a great respect for their abilities and appreciation for their camaraderie that week. Many other optometrists volunteered to participate and saw patients throughout the week. I saw many children for comprehensive examinations and shared in the responsibility of coordinating the clinic and patient care with the other core doctors and staff. In cooperation with Santa Ana School system we provided care to hundreds of students who’s needs may have gone unchecked. With the cooperation of Oakley the kids received quality eyewear at no cost to their families or the community.

We had an enthusiastic staff from all over the United States and some international team members from England, China and Canada. The evenings allowed time to take the visiting staff out to see some of Southern California. It was a very rewarding experience for me personally. Through Facebook and social media I have managed to keep up with many of the individuals I worked along side. I have formed friendships and widened my limited social circle.

Although my salary was paid by my employer that week, I donated all of my net income back to the OneSight foundation.

Question #16

When my license was disciplined and I began my probationary period I had my Orientation meeting with Ms. Jessica Sieferman and Mr. Robert Stephanopoulos. After this initial meeting I had a better understanding of the rules and regulations pertaining to the "Statement of Licensure." I misunderstood the requirements before. I am now within complete compliance of this statute.

Studying and passing the California Laws and Regulations Examination was very revealing to me. I thought I understood the California laws governing Doctors of Optometry well but studying and taking this test was enormously revealing. It was also very intimidating to know if I messed up the test and failed I would not be allowed to retake it for months and could not practice Optometry in the mean time. Several times during this discipline process I was concerned my only source of income was at jeopardy. This has had a very chilling effect as I have no other means of support and would be near bankrupt if denied my license to practice for even a couple of months.

Due to a back injury while training for diving in college I have developed a degenerative disc condition. Through physical therapy and exercise I have rehabilitated my back and the subsequent pain to a more tolerable level. I use Ibuprofen for pain management but have also strengthened my core muscles to compensate for my back. Most of the exercise has been swimming laps. Last year I swam a total of 268 miles over 178 days. I have included a log that was kept on my iPhone. I have been very diligent about getting up in the morning and going to the pool, especially when traveling. If you have ever been a swimmer then you know that some mornings it can be difficult to crawl out of a warm bed to go jump into a cold pool. The invention of the underwater iPod is the best thing to happen to lap swimming since they invented the goggle. Also, prescription goggles, which are available on Amazon.com.

All the rehabilitative measures regarding my behavior the night of the DUI were taken long before the Board of Optometry took any action against my license. Lifestyle changes and education regarding alcohol and medications were initiated within days of my accident and arrest. I entered the High Gain program that taught me specific dynamics involved with alcohol abuse, drugs and driving. I attended AA meeting as required by the High Gain program. This put me into direct contact with individuals who have damaged their lives and family with alcohol abuse. I participated in group therapy and individual therapy. It was information I felt reluctant to share with my sons at the time but I wanted them to know and understand all the repercussions this was having on my life. I endured three months of the Interlock Ignition System. This was something they had to share with me if they rode in the car with me. Something they were very reluctant to do because I had to blow into a device to start and keep the car running. They were very embarrassed to see their father endure this humiliation and it was tough to ride next to me as I did it. I think they learned from it as well and appreciate how difficult it has been to face all the barriers I have placed in my life and career with this DUI. They understand by my error in judgment what it can mean to make a mistake that follows you for years. As I have stated, my behavior had never been an issue and it was a lesson for my sons and me that even a moment of very poor judgment can have serious

ramifications. I had to reevaluate how I was medicating and what was appropriate drinking. With two teenage boys in the house, all medications were moved into a small safe that had always been used for valuables and important papers. I also read up on teenage drug use and drinking just to be informed. My sons are in their twenties and neither use drugs nor drink. This is what they tell me and I truly believe them. They are very polite and earnest young men and I am very proud of how they conducted themselves during the darker moments of this ordeal. They have been supportive and never made me feel like a failure. They knew I would being more critical of myself than they could and didn't need to pile on.

HIGH GAIN PROGRAM TORRANCE

1334 Post Ave. Torrance, Ca. 90501 *(310)328-1964*

02/09/2011

COURT CLERK

South Bay Superior Court
825 South Maple Avenue Room 170
Torrance,, CA 90503

RE: Richard Armstrong
Case Number # 0sy09233
Date of Birth: December 28, 1961

NOTICE OF COMPLETION

The above named client enrolled in our First Offender AB-541 program on November 09, 2010.

The client completed the program on February 09, 2011.

Program Requirement Hours	Required	Completed
Group	15	15
Education	15	15
Counseling	2.0	2.0
Self Help	6	6
Other	0	

Sincerely,

Deborah Hawkins

Deborah Hawkins
Program Director

cc: Client File#F5060

THIS MULTI-TONE AREA OF THE DOCUMENT CHANGES COLOR GRADUALLY AND EVENLY FROM DARK TO LIGHT WITH DARKER AREAS BOTH TOP AND BOTTOM.

STATE OF CALIFORNIA DMV DEPARTMENT OF MOTOR VEHICLES
A Public Service Agency

AA 026180

NOT VALID WITHOUT MANUFACTURER'S STAMP

IGNITION INTERLOCK NOTICE OF REMOVAL

(See back for instructions)

DRIVER LICENSE NUMBER: C4765740

SECTION I DRIVER INFORMATION

DRIVER'S NAME *(FIRST, MIDDLE, LAST)*: Richard Armstrong
SUFFIX (JR., SR., III):
MAILING ADDRESS *(STREET)*: 28152 Ridgecove Ct. S
APARTMENT/SPACE NUMBER:
CITY: Rancho Palos Verdes
STATE: CA
ZIP CODE: 90275
RESIDENCE ADDRESS *(If different from mailing address)*:
APARTMENT/SPACE NUMBER:
CITY:
STATE:
ZIP CODE:
BIRTH DATE *(MONTH, DAY, YEAR)*: 12 / 28 / 1961
HOME TELEPHONE NUMBER: (310) 544-4587
WORK TELEPHONE NUMBER: ( )

SECTION II REMOVAL/INSTALLATION INFORMATION

THE IGNITION INTERLOCK DEVICE INSTALLED IN THE VEHICLE DESCRIBED BELOW WAS REMOVED ON: 10-6-2011 (DATE)

VEHICLE MAKE	YEAR	LICENSE PLATE NUMBER	VEHICLE IDENTIFICATION NUMBER
Lexus	2003	5YEDOCA	JTJHF10V630302212

AN IGNITION INTERLOCK DEVICE WAS INSTALLED OR REMAINS INSTALLED IN ANOTHER VEHICLE DESCRIBED BELOW:

VEHICLE MAKE	YEAR	LICENSE PLATE NUMBER	VEHICLE IDENTIFICATION NUMBER

DATE OF INSTALLATION:
DATE OF NEXT MONITOR CHECK:

SECTION III MANUFACTURER/FACILITY INFORMATION

MANUFACTURER: Guardian Interlock
FACILITY NAME: Bob Lee Automotive
BUREAU OF AUTOMOTIVE REPAIR NUMBER: ARD 002076
FACILITY ADDRESS *(STREET)*: 4623 Artesia Blvd #1
CITY: Lawndale
STATE: CA
ZIP CODE: 90260

SECTION IV FACILITY USE ONLY

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

INSTALLER'S PRINTED NAME: Peter Gonzales
DAYTIME TELEPHONE NUMBER: (310) 542-4239
INSTALLERS SIGNATURE: X
DATE SENT TO DMV:
DATE SIGNED: 10-6-2011

DISTRIBUTE COPIES AS FOLLOWS:

Original: Mail the original document to:
Department of Motor Vehicles
Mandatory Actions Unit, M/S J233
P.O. Box 942890
Sacramento, CA 94290-0001

Photocopy: Driver
Photocopy: Installer
Photocopy: Manufacturer or Manufacturer's Agent

Swimming logs from iPhone

2015

Swimming
2-3 33:55.34. Total 2K yds
2-4 33:42.02. Total 2K yds
2-8 33:36 2K yds,
51:14.75 3K yds
2-10 51:08.60 3K yds
2-17 33:23.73 2K yds
2-18 33:17.50 2K yds
3-17 33:25.17 2K yds
3-18 33:23.97 2K yds
3-24 33:00.97 2K yds
3-25 33:45.43 2K yds
4-08 32:52.06 2K yds clean time
4-17 33:13.09 2K yds SM
4-19 32:36.90 2K yds Val clean
4-20 33:17.26 2K yds Val stop adjusted headphones
4-22 32:42.06 2K yds SM clean
4-23 32:38.28 2K yds SM clean
4-24 32:55.53 2K yds SM adjust headphone, lane change
4-26 32:31.78 2K yds Val clean
4-28 32:36.34 2K yds SM clean
4-29 32:02.54 2K yds SM clean
4-30 32:03.38 2K yds SM clean
5-01 32:04.81 2K yds SM clean
5-02 32:27.34 2K yds SM ifyclean
5-03 31:03.18 2K yds Val clean, tore it up! Vic
5-05 32:20.77 2K yds SM clean
5-06 32:32.31 2K yds SM lane change, some count confusion
5-07 32:23.68 2K yds SM clean
5-08 ?
5-09 31:40.73 2K yds SM thought I lost a lap so counted at half lap
Swam 3K total
5-10 31:58.44 2K yds Val clean 2.5K total
5-11 off
5-12 32:33 1st 2K dirty, 25:07 next 1.5K clean
5-13 32:07.63 1st 2K clean, 16:34.25 next 1K clean. 48:41.88
5-14 31:47.77 2K clean 16:38.63 next 1K SM.
5-15 32:08.47 2K clean SM
5-16 32:18.41 2K 33:10.64 2nd 2K SM
5-17 no swim CE class
5-18 32:04.54 2K, 24:37.30 1.5K 2nd set dirty SM
5-19 32:14.12 2K, 24:34.30 1.5K clean, less pulls. SM
5-20 31:45.87 2K, 25:01.31 1.5K clean, less pulls. SM
5-21 no swim
5-22 32:01.59 2K, 16:33.06 1K SM
5-23 31:32.73 2K yds clean 16:49.55 1K Val.
5-24 32:01 2K yds, 16:39.56 2nd 1K Val
5-25 no swim Memorial Day
5-26 32:05:99 2K yds, 17:15.50 1K SM some pool push-ups
5-27 32:30+ 2K yds dirty, 17:06.49 1K SM
5-28 32:33.22 2K yds clean, multiple stops, 16:40.41 1K
5-29 31:38.25 2K yds clean, 16:40.95 1K SM

5-30 31:21.09 2K yds clean, 11:35.89 700yds Val closed 8pm
5-31 no swim
6-1 CA Law Test - no swim PASS
6-2 31:57.09 2K yds, 16:43.64 1K SM clean
6-3 no swim
6-4 31:59.00 2K yds, 17:06.37 1K SM clean
6-5 32:05.18 2K yds, 16:30.87 1K SM clean
6-6 31:14.05 2K yds, 17:07.00 1K
Val iffy
6-7 30:48.23 2K yds, clean,
6-8 No swim, chiropratic appt
6-9 31:28.01 2K yds dirty, 17:51.40 1K clean SM
6-10 31:31.64 2K yds, 25:04.50 1.5K yds clean SM
6-11 31:11.15 2K yds, 24:10.59 1.5K yds clean SM
6-12 31:45.34 2K yds, 25:51.24 1.5K yds clean SM
6-13 32:41? 2K yds SM only
6-14 No swim CE Western Univ
6-15 31:34.28 2K yds, 24:18.43 1.5K clean SM
6-16 No swim, worked Santa Barbara
6-17 31:25.06 2K yds, 16:27.03 1K clean SM
6-18 33:08.26 2K yds, 25:43,43 1.5K dirty, messed up SM
6-19 31:28.26 2K yds, 25:04.09 1.5K clean SM
6-20 No swim
6-21 31:57.60 2K yds, clean Val
6-22 31:? 2K yds, 17:? 1K SM
6-23 No swim, didn't sleep well
6-24 31:45.45 2K, 24:00.37 1.5K
NO MUSIC FOR THE LAST WEEK, IPod is fritzed
6-25 no swim, no sleep
6-26 32:14.04 2K yds, 16:43.51 1K SM clean
6-27 30:45.27 2K yds, 23:52.53 1.5K Val clean RECORD TIME
6-28 31:24.17 2K, 17:01.31 1K Val clean
6-29 31:48.07 2K, 24:? 1.5K SM
6-30 32:30.27 2K dirty, 26:01.08 1.5K clean SM
7-1 31:24.89 2K dirty, 1K not timed SM cold showers
7-2 32:19.23 2K, 26:09.23 1.5K SM clean
7-3 32:06.59 2K, 15:10.62 1K SM clean
7-4 No swim
7-5 No swim at Duane & Jane's
7-6 32:01.01 2K, 24:39.75 1.5K clean SM
7-7 32:03.30 2K, 24:46.41 1.5K clean SM ran to loo after 2K
7-8 31:34.22 2K, 23:59.58 1.5K
Cleaned SM
7-9 31:47.59 2K, 24:37.24 1.5K clean SM
7-10 no swim, unsch Sat cover Ng
7-11 no swim
7-12 31:13.92 2K only SM after driving back from Val
7-13 31:43.27 2K, 2K 16:39.06 1K clean SM
7-14 no swim
7-15 31:11.29 w/ 1:32 split on 2K, 16:29.12 1K dirty, SM
7-16 33:05:75 2K dirty, 16:25.49 1K clean SM
7-17 32:19.04 2K only clean SM
7-18 No swim
7-19 32:15.89 2K dirty 1 lap long, 1K 16:06.06 Clean Val
7-20 3K Too dirty to time SM
7-21 31:18.? 2K, 1K 16:17.37 SM

7-22 no swim, pool closed
7-23 31:33.25 2K clean, 16:11.43 1K clean, SM
7-24 30:58.28 2K clean, 15:52.50 1K clean SM
7-25 no swim Val
7-26 no swim Val
7-27 31:38.66 2K cleaned, 24:31.62 1.5K clean SM
7-28 31:06.17 2K clean, 24:50.40 1.5K clean SM
7-29. 31:04.20 2K clean, 24:41.26 1.5K yds clean SM
7-30. 31:25.24 2K clean, 16:11.37 1K clean SM met Oscar in wheelchair
7-31. 31:11.06 2K extra lap acct for, 16:56.76 1K clean SM
8-1. 32.03.12 2K very dirty, 500 yds 8:43.56 clean Val
8-2. No swim Val
8-3. 30:48.42 cleann 2K, 24:34.05 1.5K clean SM
8-4. 32:57.39 2K dirty, pool was 12" low and screwed up SM
8-5. No swim
8-6. 30:58.24 2K missed lap acct for, 24:44.68 1.5K SM
8-7. Pool closed, no swim
8-8. No swim
8-9 no swim
8-10. 31:13.71 2K clean, 25:56.61 1.5K stopped to adjust sound
8-11. 31:57.26 2K changed lanes, 24:28.06 1.5K clean SM
8-12. No swim, dentist appt.
8-13. 31:23.34 2K clean, 25:11.17 1.5K clean SM
8-14. 31:06.90 2K clean? No pts in the am so swam late, shared lane, felt so slow.
8-15. 31:26.?? 2K, extra lap, 16:17.52 1K clean
8-16. 30:47.88 2K, clean 23:50.18 1.5K VAL
8-17. No swim
8-18 31:18.11 2K clean, 24:33.65 1.5K clean SM
8-19. 31:59.28 2K cleanish, 24:37.47 1.5K clean SM
8-20. No swim dentist appt
8-21. 31:40.73 2K clean, 16:16.42 1K clean SM
8-22 No swim
8-23 31:02.72 2K clean, 15:55.67 1K clean Val
8-24. No swim
8-25. 31:40.13 2K, 24:42.75 1.5K clean SM
8-26. 31:02.23 2K clean, 24:35.90 1.5K clean SM
8-27. 31:41.00 2K dirty, 24:45.81 1.5K clean SM
8-28. 32:23.62 2K clean SM
8-29. No swim
8-30. 30:54.79 2K clean, 1.5K 24:58.09 clean Val
8-31. 31:24.84 2K clean, 24:49.50 1.5K clean SM
9-1. 31:23.88 2K clean, 25:05.79 1.5K mostly freestyle clean SM
9-2 No swim Ventura
9-3. 31:07.90 2K clean, 24:01.25 1.5K clean Val
9-4. No swim
9-5. No swim
9-6. No swim
9-7. No swim Labor Day
9-8. 32:38:89 2K clean, 24:30.73 1.5K clean SM
9-9. No swim
9-10. No swim Vacation travel day
9-11. No swim
9-12. No swim
9-13. No swim
9-14. 35:07.26 2K, 29:? Clean Ocean City, NJ
Song for swim list ELO turn to stone, The Who Eminent Front

9-15. 35:06.02 2K, 27:24.65 1.5K clean Ocean City, NJ. This pool is long
9-16. 34:35.10 2K, 26:59.37 1.5K clean Ocean City, NJ
9-17-21. no swim
9-22. 30:53.94 2K, 15:57.53 1K clean Val
9-23. No swim
9-24. 30:34.38 2K, 15:56.05 1K clean Val
9-25-28. No swim
9-29. 30:45.82 2K, 15:56.90 clean Val
9-30. No swim
10-1. 30:30.?? Dirty, extra lap 2K, 14:32.59 1K dirty clicked half lap Val
10-2-12. No swim
10-13. 31:30.15 2K, 16:24.78 1K clean Val.
10-14. No swim
10-15. 30:35.15 2K clean, 16:00.80 1K clean Val
10-16,17. No swim
10-20. 32:02.88 2K lots of stops for music issues, 16:00
10-21. No swim
10-22. 31:51.19 missed a lap, added average, 2K 16:+ 1K
10-23-26. No swim
10-27. 30:50.19 2K clean, 16:16 1K clean Val
10-28. No swim
10-29. 30:44.50 2K clean, 16:17.75 1K clean Val
11-3. 30:44.? Missed the stop on 2K mark, 16:25.13 1K Val
11-5. 30:40.18 2K dirty, 16:09.00 1K clean Val
11-10. 30:45.? Racing w/ some guy in next lane. Lost to flip turn after 1K. Fun. 600 more then chatted w/ girl in next lane.
11-12. No swim Angels for Sight
11-17. 31:17.50 2K missed click end, 16:43.24 1K clean. Val
11-21. 30:54.42 2K clean, 16:12.75 clean. Val
11-22. 30:38.42 2K, 16:?
11-24 30:40.21 2K, 11:18.83 700 cut short to make it to PT
11-26. Thanksgiving
12-1. 30:58.42 2K adjusted, 15:57.? 1K clean
12-2. 30:47.50. 2K clean, 15:56.
12-3. 30:16.00 2K dirty going for personal best, 1K No time

NEW SWIMMING DEC 12-1. 30:58.42 2K adjusted, 15:57.? 1K clean
12-2. 30:47.50. 2K clean, 15:56.
12-3. 30:16.00 2K dirty going for personal best, 1K No time
12-6. 31:02.25 2K clean, 16:33.56 1K clean
12-8. ~~30:04.24 2K clean, 16:00.84 1K clean. Fastest time. New PERSONAL BEST!!!
12-10. 29:57.12-- 2K SKIPPED LAP, 16:59.00 1K extra lap.
12-15. 30:12.70 2K clean, 16:08.48 1K clean.
12-17. 30:??.?? Under 15. Did not record
12-22. 30:16.18 2K clean, 7:58.59 500yds, 16:
12-24. 29:59.18 2K dirty 1st lap .18, pulled out of pool at lap 16 due to early closing Xmas
12-26. 30:00.28 2K CLEAN NEW RECORD, 15:59.00 1K clean, then home then work
12-28. 30:15.56 2K clean, 16:04.38 1K clean
1-7. 30:57.35 2K clean, 17:18.79 1K + extra lap clean
1-12. 30:12.65 2K clean jumped out to get pull buoy at 11, 15:50.75 1K clean
1-14. 31:08.35 2K missed a lap, 30:24.6 after acct. 17:10.96 1K stopped to talk to neighbor.
1-17. 30:?? 2K clean, 17:02.95 1K clean
1-19. 30:21.72 2K clean, 16:02. 1K clean
1-21. 30:06.72 2K clean, FASTEST TIME OF 2016 24:38.62 1.5K clean
1-24. 30:13.59 2K clean, 16:13.05 1K clean

1-26. 30:19:68 2K clean, 20:?? 1K didn't stop timer
1-30. 31:16.18 2K clean, 15:50.59 1K clean
2-2. 30:00.90 2K clean, 16:06 1K clean. New playlist
2-3. 30:03.23 2K clean, 24:17.55 1.5K clean
2-7. 30:55.81 2K dirty, may have messed up the count, 19:?? 1.5K
2-9. 30:06.26 2K clean. 16:18.53 1K clean
2-10. 30:06.59 2K clean. 17:00 1K clean practice flip turns.
2-16. 31.13.65 2K. clean, 17:
2-23. 31:35:33 2K, clean. 16:05 1K clean
2-24. 30:45:36 2K. Clean. 19:00 1K talked to Jim
3-1. 31:08.76 2K clean, 16:?? 1K clean. Bought Isabella today
3-2. 30:35.?? 2K clean, 16:?? 1K clean. Swam at Stevenson Ranch
3-4. 30:53.27 2K dirty, used new timer, 15:49.13 1K clean used old timer. Working Valencia today

3/5-31 Stayed out of the pool - had the flu

4/1. 24:?? 1500yds. Little stiff
4/3. 32:08.50 2k yds. Clean. No more. Rt. shoulder stiff
4/6. 32:00.45 2k yds. Clean.
4/9. 31:24.34 2k yds. Clean then another 1k no time.
4/11. 32:37.?? 2k dirty, subtract 47 sec. For extra lap. 16:?? 1k

Question #17

I have continued to expand upon my optometric understanding through Continuing Education and journal articles. I have not enrolled in any post-graduate courses since August 2013 when I received notification of my license being disciplined.

Question #18

As an avid reader I am constantly picking up journals and reading optometric articles. Journals can be found in most optometry exam rooms although the good ones are usually hidden away. I subscribe to the Review of Optometry and read most of the articles every month. I admit a preference for corneal and contact lens related articles as this has always been of particular interest to me. Dry eye related testing, artificial tears, effectiveness of Omega 3s have all come in handy as this population increases. The term Miebomian Gland Dysfunction was first introduced to me as a student by Dr. David Bright. When I graduated this was barely a term in the literature and received little attention. It was later embraced by optometry as an effective treatment for dry eye then later by ophthalmology as well. While working at UCLA I recall when this was topic was introduced at Grand Rounds to the ophthalmologists in training at the Jules Stein Medical Center. While employed at UCLA it was my honor to attend Grand Rounds every Wednesday afternoon.

I do not, however, keep a journal of the all articles I read. It never seemed necessary, until now. While traveling this last year I came across a leather bound, numbered limited edition, #1403, “Diseases of the Eye” by Antonio Scarpa in a rare book shop in San Luis Obispo. I collect books as an avocation. I kept it on my nightstand in the hotel during my extended stay in Santa Maria where I read it through though not thoroughly. It is a bit dated, 1806.

Journal articles;

Bezner J, Karpecki P. Can You Identify These Tricky Topographies? Review of Optometry. April 2014

Weidmeyer S. Recognize the Signs of Ocular Melanoma. Review of Optometry. November 2015

Langs, Messmer E, Geerling G, Mackert M, Brunner T, Dollack S, Kutchoukov B, Bohringer D, Reinhard T, Maier P. Prospective, randomized, double-blind trial to investigate the efficacy to halt the progression of keratoconus. BMC Ophthalmol. 2015 Jul 21; 15:78 doi:10. 1186/s12886-015-0070-7.

Yeung K, Hampton R, Bacterial Conjunctivitis, Differential Diagnosis. Medscape. Updated Dec. 4, 2015

Question #19

Continuing Education Courses since April 1, 2015

4/08/15

- California Retinal Consultants and Research Conference

Course: Retinal Imaging Conference (2 hrs.)

Instr: S. Couvillion, M.D., R. See, M.D., D. Dhoot, M.D.

4/12/15

- Cornea & Contact Lens CE Program (7 hrs.)

Course: Anterior Segment Disease and Its Management

Instr: Chiu, O.D.

Course: The Present & Future of GP Contact Lenses: A Scleral Primer

Instr: Gates, O.D., Miller, O.D.

Course: Corneal & Scleral GP Fluorscein Patterns: In A Flash

Instr: Edrington, O.D., Gates, O.D., Miller, O.D.

Course: Children and Contact Lenses

Instr: Chang, O.D., Lam, O.D.

Course: Myopia Control: Today and the Future

Instr: Marsden, O.D.

Course: Contact Lens Management of Presbyopia

Instr: Schornack, O.D.

5/17/15

- C&E's Ocular Symposium (8 hrs.)

Course: Clinical Desiccions I the Medical Management of Glaucoma

Instr: R. Woodbridge, O. D.

Course: New Developments in Glaucoma Diagnosis and Care

Instr: R. Woodridge, O.D.

Course: Nutrition for Vision: Nutrition Science for Ocular Health

Instr: J. Anshel, O.D.

Course: Clinical Case Management in ICD-10 ERA; Glaucoma, Diabetes, Cataract

Instr: H. Yamamoto, O.D.

6/15/15

- Comprehensive Surgical Co-Management (2 hrs.)

Course: Topography Guided LASIK, ICL, Keratoconus, Cataract Surgery and Retinal Disease

Instr: P. Dougherty, M.D., S. Johnson, M.D., D. Lauritzen, M.D.

10/4/15

- Retinal Symposium Okularfest 2015 (7 hrs.)

Course: Smart Ophthalmics: An Innovative Platform..

Instr: W. Fink, M.D.

Course: Advances in Cataract Surgery

Instr: S, Shah, M.D.

Course: Topography Guided LASIK

Instr: P. Dougherty, M.D.

Course: Autoimmune Retinopathy Including Cancer-Associated Retinopathy

Instr: J. Spiegel, M.D.

Course: Selected Cases of Optic Edema

Instr: J. Boeckmann, M.D.

Course: Laser Refractive Surgery Options for Patients After Prior Refractive Surgery

Instr: M. Schultz, M.D.

Course: Adaptive Optics in Retinal Imaging: Theory and Clinical Applications

Instr: M. Sharma, M.D., O.D.

Course: Vitreoretinal Interface Disease

Instr: K. Suk, M.D.

Course: Update on Retinal Imaging

Instr: K. Lin, M.D.

Course: Masqueraders of Glaucoma

Instr: B. Chen, M.D.

Course: Under Pressure: Real-Life IOP

Instr: L. Bei, M.D.

Course: Interesting Corneal Pathology Case Studies

Instr: W. Hollander, M.D.

Course: Retinal Disorders Affected by Pregnancy

Instr: J. Gunn, M.D.

Course: Surgical Management of Strabismus

Instr: K. Grant-Acquah, M.D.

Course: Ocular Manifestations of Systemic Disease

Instr: L. Jiang, M.D.

Course: RIP Blepharoplasty

Instr: L. Lee, M.D.

Course: Is That a Twinkle in Your Eye, Or Are You Just Happy to See Me

Instr: J. Heyeda, M.D.

Course: Retina Jeopardy

Instr: J. Morrison-Reyes, M.D.

Course: Fun With Neuro-Ophthalmology

Instr: M. Ararwal, M.D.

Course: Health Care Update

Instr: T. Chang, M.D.

2/22/16

- Comprehensive Surgical Co-management (2 hrs.)

Course: Optimizing Outcomes for Second Eye Cataract Surgery with the New Z8 Laser

Instr: P. Dougherty, M.D.

4/10/16

- Specialty Contact Lens Clinical Symposium (8 hrs.)

Course: GP Contact Lens Prescribing Primer: Spheres, Aspherics, and Torics

Insr: E. Bennet, O.D., M.S.Ed

Course: Challenging (But Extremely Rewarding) Cornea and CL Cases: Video Grand Rounds

Insr: Chen, O.D., Heinrich, O.D., Messer, O.D.

Course: Scleral Lens 101

Instr: Chen, O.D., Heinrich, O.D., Messer, O.D.

Course: Wow! It's a Great Day to be a Presbyope

Insr: Bennet, O.D., Messer, O.D.

Course: GP Lens Care Update

Instr: Bennet, O.D.

Course: Orthokeratology and Myopia Control

Instr: Chang, O.D., Lam, O.D.

Course: Smoldering Dry Eye

Instr: J. Kwan, O.D.

Question #20

List of People submitting Letters of Recommendation

Karen Yueng, O.D., F.A.A.O.

U See LA Optometry-an extension of UCLA, Ashe

308 Westwood Plaza, Ackerman Union Level B

Los Angeles, CA 90095

(310) 267-4608

Shea Hamilton

Executive Director, Angels for Sight

920 North Alameda Street

Compton, CA 90221

(310) 537-2102

Dawn Hartman

27938 Ridgebrook Court

Rancho Palos Verdes, CA 90275

(310) 561-2761

Christian M. Armstrong

5921 W. Armaga Springs Rd. #A

Rancho Palos Verdes, CA 90275

(310) 427-4742

UNIVERSITY OF CALIFORNIA, LOS ANGELES

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SANTA BARBARA • SANTA CRUZ

Karen K Yeung, OD, FAAO
U See LA Optometry-an extension of UCLA Ashe
308 Westwood Plaza, Ackerman Union level B
Los Angeles, CA 90095
310-267-4608

Attn: Robert Stephanopoulos
California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, CA 95834

Re: Richard Armstrong

3/7/2016

To Whom It May Concern:

I've had the pleasure of working with Dr Richard Armstrong at the UCLA Arthur Ashe Student Health and Wellness center from 12/6/2011 to 10/31/2012. I have since kept in touch with him though we have not worked clinically together. During his time at UCLA, we worked side by side; our offices were adjacent to each other and we shared many of the same patients. He showed integrity and high optometry skills. He never appeared intoxicated or under the influence of any drugs/medications. He never had any smell of alcohol on him. In fact, he presented himself quite professionally. He was never late or unexpectedly absent from work. He has high work ethics.

If you have any questions or if I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Karen K Yeung, OD

Angels for Sight
Better Vision for a Brighter Future.

March 31, 2016

Mr. Robert Stephanopoulos
California State Board of Optometry
2420 Del Paso Road #225
Sacramento, CA 95834

Dear Mr. Stephanopoulos:

I have known and worked with Dr. Richard Armstrong since 2015 and can attest to his skill as a professional and the personal traits which make him an excellent candidate for reinstatement. Dr.

Armstrong has performed his community service with our organization by providing eye examinations to the uninsured, underserved, and working poor, at no cost to them or their families who otherwise would not have access to such services.

Professionally, Dr. Armstrong has committed himself twice a month on Tuesday or Thursday to provide vision care to our most deserving population our veterans. He works very well with others. He takes time with each patient making them feel very special, each patient comes out of the examination room with reassurance that they are going to do better in life. Without Dr. Armstrong's help during these past years Angels for Sight would have had a difficult time maintaining our trademark of providing quality vision care in a timely manner to our patients and the community as a whole.

Personally, I can say Dr. Armstrong is one of our favorites to work with. He has a very positive attitude, charming, compassionate and caring no task is impossible for him. Not only is he diligent and hardworking, he is also persistent, pro-active and possess excellent interpersonal skills. All that have had the opportunity to work with him have commented that they enjoyed their experience.

In conclusion, I whole-heartedly recommend Dr. Richard Armstrong for reinstatement as he applies.

Feel free to contact me at (310) 537-2102 should you want to further discuss my recommendation.

Respectfully,

Shea Hamilton, Executive Director

920 North Alameda Street • Compton, California 90221 • T 310.537.2102 • F 310.537.2100 • www.angelsforsight.org

Board of Directors

Shea Hamilton, *Founder* • Betty Ann Pace, *Chairman* • Barbara Sullivan-George, *Treasurer*
Karen Ayres, *ABOC and Sales Consultant, Secretary* • Barbara Cocks, *Huerta Quorum, President* • Dr. Lana Tu, *Board Advisor*
Robert "Bob" Bartlett, *Board Member Emeritus*

Dawn E. Hartman
27938 Ridgebrook Court
Rancho Palos Verdes, California 90275
(310) 561-2761
hartman.dawn@yahoo.com

March 31, 2016

Mr. Robert Stephanopoulos
California State Board of Optometry
2450 Del Paso Road, Suite 105
Sacramento, California 95834

Re: Richard P. Armstrong, O.D.

Dear Members of the Board of Optometry:

I am writing you to inform you of the many fine qualities of Richard P. Armstrong whom I have known, as a friend, since February, 2008. Over the years, I have spent significant amounts of time with Dr. Armstrong and his family and have celebrated many holidays with them. I have found Dr. Armstrong to be a person with good moral character. He operates with a high level of integrity, and is honest, compassionate, reliable, and dedicated to his profession, family and friends. He expresses a passion for his job often.

I know several of Dr. Armstrong's patients, all of whom indicated he is very thorough and caring. Each one of them left the care of other optometrists because they were unhappy with their care. After being examined and cared for by Dr. Armstrong they continued under his care expressing their gratitude for him. I recall one individual indicating Dr. Armstrong fitted her with the best contact lenses she had ever had.

If you would like to discuss any of the above with me, or have questions, please do not hesitate to contact me at the above-reference number.

Sincerely,

Dawn E Hartman

Dawn E. Hartman

March 29, 2016

Dear California State Board of Optometry,

I am writing this letter in support of my Father, Richard Armstrong, in regards to his probation. From the beginning of the incident in September, 2010, my Father has been transparent about it and the ramifications of his actions with both my brother, Alexander Armstrong (age 21) and me (age 23). He has been clear about the consequences of his actions and what he has been doing to rectify the situation and comply with the requirements placed on him. He has done all that he can to ensure he has met all that has been asked of him throughout this process. This incident was an anomaly and does not reflect my Father's behavior and conduct throughout my life. My Father has always taken responsibility for my well being as a child and has been reliable and capable parent and a positive role model. In light of this, I believe a prolonged probationary period is unnecessary. Father has cooperated with every step of this process over several years and, in my estimation, has proven that he has learned from this incident. A prolonged probationary period would also be harmful to my Father's career and prevents him from seeking other positions in his field. It is my hope that you would consider shortening my Father's probationary period in consideration of his cooperation and that the incident occurred five years ago.

Thank you for your time,

Christian Masaru Armstrong

5921 Armaga Springs Rd #A, Rancho Palos Verdes, CA, 90275
armisaelofashkelon@gmail.com
310-427-4742

BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **RICHARD PAUL ARMSTRONG,** Respondent.	Case Nos. 2011-214 OAH No. 2013110541

FINAL DECISION AFTER REJECTION OF PROPOSED DECISION

Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings heard this matter on September 24, 2014, in Los Angeles, California.

Deputy Attorney General Matthew King represented complainant.

Richard Paul Armstrong (respondent) appeared personally and was represented by Michelle Dean, Attorney at Law.

Evidence was received and the record was left open to allow respondent to submit letters of reference. The reference letters were received on October 10, 2014. Complainant did not file a response. The reference letters were marked collectively as Exhibit A and admitted as administrative hearsay (See Government Code section 11513, subdivision (d). The matter was submitted for decision on October 14, 2014. The Administrative Law Judge issued his Proposed Decision on October 30, 2014. The Proposed Decision of the Administrative Law Judge was submitted to the Board of Optometry ("board"), and after due consideration thereof, the board rejected the proposed decision on December 10, 2014. On December 11, 2014, the board issued an Order Fixing Date for Submission of Written Argument.

Respondent timely submitted written argument on December 25, 2014. Complainant timely submitted written argument on December 30, 3014, as well as a Motion to strike respondent's declaration, arguing that it constituted "new evidence," which was prohibited by the Board's Order Fixing Date for Submission of Written Argument. Having reviewed respondent's declaration, the board hereby denies Complainant's motion to strike respondent's declaration as "new evidence."

The time for filing written argument in this matter having expired, and the entire record, including the transcript of said hearing having been read and considered, the board, pursuant to Government Code section 11517, hereby decides this matter as follows:

FACTUAL FINDINGS

1. Complainant Mona Maggio filed the Accusation in her official capacity as Executive Officer of the Board of Optometry, Department of Consumer Affairs (Board).

2. On August 17, 1989, the Board issued Optometrist License No. OPT 9196 to Respondent. Said license is in full force and effect.

3. On April 15, 2011, in the Superior Court of California, County of Los Angeles (Case No. 0SY09233), respondent entered a plea of nolo contendere and was convicted of violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol or drugs (DUI), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for 36 months on certain conditions, including, inter alia, payment of a $1,738 in fines and fees, and completion of a three-month alcohol and drug counseling program. Respondent paid the fine and completed the alcohol counseling program. In fact, respondent completed the alcohol counseling program prior to entering his plea in the superior court.

4. The facts and circumstances underlying the conviction were that on September 11, 2010, at 1:15 a.m., respondent drove his vehicle while under the influence of alcohol and prescribed drugs. While driving his vehicle in this condition, respondent approached a Y intersection with a raised triangle median. He drove over the curb and onto the raised median, striking a street sign and a small PVC flagpole. Respondent was not hurt and his car sustained only minor damage. A police officer who investigated the accident approached respondent's vehicle and questioned respondent. Respondent told the officer that as he approached the Y intersection, he was going to travel eastbound to his home, then at the last second changed his mind and decided to take the southbound lane to Blockbuster video. As the officer spoke with respondent, he noticed that respondent's eyes were "very glossy," and his speech was slurred. The officer also detected a strong odor of alcohol on respondent's breath. Respondent exited the vehicle at the officer's request. Respondent stumbled twice upon exiting and needed to use the side of his vehicle to support himself. The police officer then requested that a police officer from the DUI Task Force conduct an investigation.

5. The DUI Task Force police officer conducted a field sobriety test on respondent at approximately 1:40 a.m. and determined that respondent was unable to properly perform the field sobriety test. Respondent consented to a blood test, which was drawn from respondent at 2:20 a.m. The blood sample was analyzed for drugs and alcohol. The final test results were positive for the drugs Diazepam (332 ng/ml), Nordiazepam (423 ng/ml), Oxazepam (no amount noted), Temazepam (no amount

noted), and Vicodin (no amount noted).[1] Respondent's blood alcohol concentration was .11 percent. There was no expert testimony introduced to indicate whether the amounts of drugs detected in respondent's blood would have had an effect on respondent's sobriety on the night of the incident, or whether these amounts would have increased the level of respondent's intoxication.

6. Respondent expressed remorse for his conduct and stated that he immediately informed his adult children of his arrest for DUI. Further, respondent informed the Board shortly after his conviction. He testified that his conduct on the night of his arrest was an aberration. He suffered a back injury in the past and has taken prescription drugs. He had taken Vicodin for pain the day before his arrest and Diazapam for sleep the night before his arrest. On the night of the incident he drank some wine and took a Sudafed pill before driving.

7. Prior to his DUI arrest, respondent had worked for Lens Crafters for 25 years with no prior discipline or complaints. Since the Accusation was filed, respondent has had difficulty maintaining employment. However, he returned to Lens Crafters this year, working as a substitute optometrist.

8. Respondent submitted reference letters, one of which is from his colleague Dr. Karen K. Yeung. Dr. Yeung noted that respondent exhibited "integrity and high optometry skills. He never appeared intoxicated or under the influence of any drugs/medications. He never had any smell of alcohol. In fact, he presented himself quite professionally. He was never late or unexpectedly absent for work. He has high work ethics." A second letter was written by Michelle Moore, General Manager for Lens Crafters in Salinas, California, noted that "[respondent] was always on time, professional, and gave excellent patient care. His prescriptions were accurate, and the patients even referred friends and family to our office because they were satisfied with the care they received. I was never concerned that Dr. Armstrong was under the influence of alcohol or any other substance." (Exhibit A.).

9. In addition to his excellent work habits, respondent has maintained a good relationship with his family. His son wrote a letter attesting to respondent's conduct before and since his arrest for DUI. He wrote:

> [Respondent] was transparent with my younger brother and me throughout the whole process of meeting the state's demands in regards to his DUI. He was sure to impart to me the lesson of the dangers and consequences of driving under the

[1] Diazapam is a psychotropic drug generally prescribed for the management of anxiety disorders. Nordiazepam is a drug that has anticonvulsant, anxiolytic, muscle relaxant, and sedative properties. Oxazepam is a drug that is prescribed for the treatment of anxiety and insomnia. Temazepam is a drug that is generally prescribed for sleeplessness. Vicodin is a brand name for Hydrocodone generally prescribed to treat pain. All of the aforementioned drugs are controlled substances under Health and Safety Code section 11057, and are considered dangerous drugs under Business and Profession Code section 4022.

> influence and demonstrating the repercussions of such actions. . . . He has done his best to make sure the DUI did not impact my brother or my life negatively. He has continued to maintain steady work. He exercises and swims frequently. He has shown diligence and care in handling this situation, met all demands the state has placed on him and has taken care to be a good father while keeping the whole process transparent for me. . . . I write this to vouch for my father's excellent behavior before and since the incident.
> (Exhibit A.).

10. Respondent's testimony that his conduct on the night of his arrest was an aberration was credible. Respondent is a 52-year-old man with no prior convictions. He has an excellent work history and other than this one incident, there was no evidence that he has exhibited conduct which would be considered red flags of an alcoholic or drug abuser.

11. Complainant presented evidence of costs of investigation and enforcement totaling $6,960. These costs are deemed reasonable under Business and Professions Code section 125.3.

LEGAL CONCLUSIONS

1. Cause exists to impose discipline on the optometrist license previously issued to respondent, under Business and Professions Code sections 490 and 3110, subdivision (k), for unprofessional conduct in that respondent was convicted of a crime substantially related to the duties, functions and qualifications of a licensed optometrist.

2. Cause exists to impose discipline on the optometrist license previously issued to respondent, under Business and Professions Code section 3110, subdivision (l), for unprofessional conduct in that respondent used alcohol and drugs to an extent or in a manner dangerous or injurious to himself or others as set forth in Factual Findings 5 and 6.

3. Cause exists to impose discipline on the optometrist license previously issued to respondent, under Business and Professions Code section 3110, subdivision (f), for unprofessional conduct in that respondent's conduct of driving under the influence of drugs and/or alcohol would have warranted denial of a license.

4. Cause exists to impose discipline on the optometrist license previously issued to respondent under Business and Professions Code section 3110, subdivision (a), for violating statutes and regulations regulating the conduct of optometrists.

5. Cause exists to order Respondent to pay reasonable costs of investigation and prosecution of this matter in the amount of $6,960 under Business and Professions Code section 125.3, based on Factual Finding 11.

6. The Board has issued disciplinary guidelines which include factors in aggravation and mitigation as follows:

EVIDENCE IN AGGRAVATION OF DISCIPLINE

1. Patient's trust, health, safety or well-being was jeopardized.

2. Patient's or employer's trust violated (e.g., theft, embezzlement, fraud).

3. History of prior discipline.

4. Patterned behavior: Respondent has a history of one or more violations or convictions related to the current violation(s)

5. Perjury on official Board forms.

6. Violent nature of crime or act.

7. Violation of Board Probation.

8. Failure to provide a specimen for testing in violation of terms and conditions of probation.

9. Commission of any crime against a minor, or while knowingly in the presence of, or while caring for, a minor.

EVIDENCE IN MITIGATION OF DISCIPLINE

1. Recognition by Respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

2. Respondent was forthcoming and reported violation or conviction to the Board.

3. A substantial amount of time since the violation or conviction occurred.

4. No prior criminal or disciplinary history.

7. Respondent's conduct, which is the basis for discipline, did not include any of the above factors in aggravation. Respondent did not jeopardize patient safety or trust. He has no history of prior violations or pattern of misconduct related to the current violation. Finally, respondent has not committed acts of violence or dishonesty; nor has he violated any terms or conditions of probation.

8. In contrast to the lack of evidence in aggravation, respondent satisfied all of the above referenced factors in mitigation. Respondent recognized his wrongdoing and was remorseful for his misconduct as evidenced by his willingness to tell his children of his arrest and his subsequent conviction. He demonstrated corrective action to prevent reoccurrence by completing his probationary conditions early and by voluntarily taking and completing an alcohol and drug counseling program before entering his plea in the superior court. Respondent was forthcoming in that he informed the Board of his conviction shortly after entering his plea. Finally, four years have elapsed since respondent committed the offense and there was no evidence of prior or subsequent misconduct. Respondent also submitted declarations attesting to his integrity and optometry skills in the workplace.

9. Through its enactment of Business and Professions Code section 315, the legislature established a Substance Abuse Coordinating Committee (comprised of the executive officers of the healing arts boards) to formulate uniform standards dealing with "substance abusing licensees." These standards include, inter alia, requirements for clinical diagnostic evaluations of licensees, temporary removal of the licensees pending a clinical evaluation, requirement for group meeting attendance, and standards relating biological testing of substance abusing licensees. The Board has incorporated these standards in its optional conditions. The introduction to these standards is set forth in the guidelines and states in pertinent part:

> **§1575. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines**
>
> In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section11400 et seq.), the Board of Optometry shall comply with the"Uniform Standards Related to Substance Abuse" (Uniform Standards) and consider the "Disciplinary Guidelines"(DG-4,5-2012) which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; Uniform Standards apply to a substance-abusing licensee.
>
> (a) Subject to subdivision (b), deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Board, in its sole discretion,

determines that the facts of the particular case warrant such a deviation for example: the presence of mitigating factors; the age of the case; evidentiary problems.

(b) If the conduct found to be a violation involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of Section 315 of the Code. If the licensee does not rebut that presumption, then the Uniform Standards for substance-abusing licensees shall apply.

UNIFORM STANDARDS FOR SUBSTANCE ABUSING LICENSEES

Pursuant to Business and Professions Code section 315, the following standards shall be adhered to in all cases in which an optometrist's license is placed on probation because the optometrist is a substance-abusing licensee. These standards are not guidelines and shall be followed in all instances, except that the Board may impose more restrictive conditions if necessary to protect the public.

10. When determining what discipline, if any, to apply, the Board will consider its Disciplinary Guidelines and, when applicable, apply the Uniform Standards Related to Substance Abusing Licensees. If an offense involves drugs and/or alcohol, the Board must presume that the respondent is a substance-abusing licensee and apply the uniform standards. It would then be the respondent's burden to rebut this presumption. Here, the respondent's conduct involved both drugs and alcohol, which led to him pleading no contest to one count of misdemeanor driving under the influence of alcohol or drugs. This means that the board is required to presume that respondent is a substance-abusing licensee. However, for the reasons explained below, the evidence shows that respondent rebutted the presumption that he is a substance-abusing licensee, and as such, the Uniform Standards Related to Substance Abusing Licensees would not be applicable.

11. Respondent was able to rebut the presumption that he is a substance-abusing licensee by his testimony on the totality of circumstances. Respondent's DUI conviction was the result of poor judgment on his part drinking alcohol after taking prescription drugs for a prior back injury. Prior to this conviction, respondent had no history of criminal convictions, nor has he engaged in any bad acts since his conviction. No evidence was submitted to suggest that his use of prescription drugs affected his work with patients or that he was a danger to the public in general. Respondent was not only remorseful, but he also readily accepted blame for his actions and took corrective action to avoid the possibility of reoffending. Respondent also testified that he decreased the amount of medication he takes and rarely drinks, other than 2-3 glasses of wine per week. Finally, respondent submitted declarations

from persons familiar with his work and dedication to public service. No one mentioned ever seeing respondent intoxicated or under the influence at work, nor expressed concern that this would occur.

12. The purpose of proceedings of this type is to protect the public, and not to punish an errant licensee. (E.g., *Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164; *Bryce v. Board of Medical Quality Assurance* (1986) 184 Cal.App.3d 1471, 1476; *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784-786.) Indeed, such a mission—public protection—has been given to the Board by the legislature pursuant to Business and Profession Code section 2708.1.

13. While recidivism is unlikely in this case, there is cause for concern because of the combination of drugs and alcohol in respondent's system. Further, respondent exhibited a lack of good sense and judgment by driving while under the influence. Based on all of the facts and circumstances of this case, the public would be adequately protected by an order imposing a three year probationary period under standard terms and conditions.

ORDER

IT IS HEREBY ORDERED that Optometrist License Number OPT 9196 issued to respondent Richard Paul Armstrong is revoked. However, the revocation is stayed and respondent's Optometrist License is placed on probation for three years on the following conditions.

SEVERABILITY CLAUSE
Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. OBEY ALL LAWS
Respondent shall obey all federal, state, and local laws, governing the practice of optometry in California. Respondent shall notify the Board in writing within 72 hours of any incident resulting in his arrest, or charges filed against, or a citation issued against respondent.

CRIMINAL COURT ORDERS: If respondent is under criminal court orders by any governmental agency, including probation or parole, and the orders are violated, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

OTHER BOARD OR REGULATORY AGENCY ORDERS: If respondent is subject to any other disciplinary order from any other health-care related board or any professional licensing or certification regulatory agency in California or elsewhere, and

violates any of the orders or conditions imposed by other agencies, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

2. QUARTERLY REPORTS

Respondent shall file quarterly reports of compliance under penalty of perjury to the probation monitor assigned by the Board. Quarterly report forms will be provided by the Board (DG-QR1 (05/2012)). Omission or falsification in any manner of any information on these reports shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against respondent's optometrist license. Respondent is responsible for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year of probation throughout the entire length of probation as follows:

- For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.
- For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.
- For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.
- For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

Failure to submit complete and timely reports shall constitute a violation of probation.

3. COOPERATE WITH PROBATION MONITORING PROGRAM

Respondent shall comply with the requirements of the Board's probation monitoring program, and shall, upon reasonable request, report or personally appear as directed. Respondent shall claim all certified mail issued by the Board, respond to all notices of reasonable requests timely, and submit Reports, Identification Update reports or other reports similar in nature, as requested and directed by the Board or its representative.

Respondent is encouraged to contact the Board's probation monitoring program representative at any time he has a question or concern regarding his terms and conditions of probation.

Failure to appear for any scheduled meeting or examination, or cooperate with the requirements of the program, including timely submission of requested information, shall constitute a violation of probation and may result in the filing of an accusation and/or a petition to revoke probation against respondent's Optometrist license.

4. PROBATION MONITORING COSTS
All costs incurred for probation monitoring during the entire probation shall be paid by the respondent. The monthly cost may be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and conditions may also cause this amount to be increased.

All payments for costs are to be sent directly to the Board of Optometry and must be received by the date(s) specified. (Periods of tolling will not toll the probation monitoring costs incurred.)

If respondent is unable to submit costs for any month, he/she shall be required, instead, to submit an explanation of why he is unable to submit the costs, and the date(s) he will be able to submit the costs, including payment amount(s). Supporting documentation and evidence of why respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, respondent understands that by providing evidence and supporting documentation of financial hardship it may delay further disciplinary action.

In addition to any other disciplinary action taken by the Board, an unrestricted license will not be issued at the end of the probationary period and the optometrist license will not be renewed, until such time as all probation monitoring costs have been paid.

5. FUNCTION AS AN OPTOMETRIST
Respondent shall function as an optometrist for a minimum of 60 hours per month for the entire term of his probation period.

6. NOTICE TO EMPLOYER
Respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone number of all employers and supervisors and shall give specific, written consent that the licensee authorizes the Board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring. Monitoring includes, but is not limited to, any violation of any probationary term and condition. Respondent shall be required to inform his employer, and each subsequent employer during the probation period, of the discipline imposed by this decision by providing his supervisor and director and all subsequent supervisors and directors with a copy of the decision and order, and the accusation in this matter prior to the beginning of or returning to employment or within 14 calendar days from each change in a supervisor or director.

The respondent must ensure that the Board receives written confirmation from the employer that he is aware of the Discipline, on forms to be provided to the Respondent (DG-Form 1 (05/2012)). Respondent must ensure that all reports completed by the

employer are submitted from the employer directly to the Board. Respondent is responsible for contacting the Board to obtain additional forms if needed.

7. CHANGES OF EMPLOYMENT OR RESIDENCE

Respondent shall notify the Board, and appointed probation monitor in writing, of any and all changes of employment, location, and address within 14 calendar days of such change. This includes but is not limited to applying for employment, termination or resignation from employment, change in employment status, and change in supervisors, administrators or directors.

Respondent shall also notify his probation monitor AND the Board IN WRITING of any changes of residence or mailing address within 14 calendar days. P.O. Boxes are accepted for mailing purposes; however respondent must also provide his/her physical residence address as well.

8. COST RECOVERY

Respondent shall pay to the Board a sum not to exceed the costs of the investigation and prosecution of this case. That sum shall be $ 6,960 and shall be paid in full directly to the Board, in a Board-approved payment plan, within six months before the end of the Probation term. Cost recovery will not be tolled.

If Respondent is unable to submit costs timely, he shall be required instead to submit an explanation of why he/she is unable to submit these costs in part or in entirety, and the date(s) he will be able to submit the costs, including payment amount(s). Supporting documentation and evidence of why respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, respondent understands that by providing evidence and supporting documentation of financial hardship may delay further disciplinary action.

Consideration to financial hardship will not be given should respondent violate this term and condition, unless an unexpected AND unavoidable hardship is established from the date of this order to the date payment(s) is due.

9. TAKE AND PASS CALIFORNIA LAWS AND REGULATIONS EXAMINATION

Within 60 calendar days of the effective date of this decision, or within some other time as prescribed in writing by the Board, respondent shall take and pass the California Laws and Regulations Examination (CLRE). If respondent fails this examination, respondent must take and pass a re-examination as approved by the Board. The waiting period between repeat examinations shall be at six-month intervals until success is achieved. Respondent shall pay the established examination fees.

If respondent fails the first examination, respondent shall immediately cease the practice of optometry until the re-examination has been successfully passed; as evidenced by written notice to respondent from the Board.

If respondent has not taken and passed the examination within six months from the effective date of this decision, respondent shall be considered to be in violation of probation.

10. COMMUNITY SERVICES
All types of community services shall be at the Board's discretion, depending on the violation. Within 30 calendar days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, a community service program in which respondent provides free non-optometric or professional optometric services on a regular basis to a community or charitable facility or agency, amounting to a minimum of four hours per month of probation. Such services shall begin no later than 15 calendar days after respondent is notified of the approved program.

11. VALID LICENSE STATUS
Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees and meet CE requirements prior to his/her license expiration date shall constitute a violation of probation.

12. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE
Periods of residency or practice outside California, whether the periods of residency or practice are temporary or permanent, will toll the probation period but will not toll the cost recovery requirement, nor the probation monitoring costs incurred. Travel outside of California for more than 30 calendar days must be reported to the Board in writing prior to departure. Respondent shall notify the Board, in writing, within 14 calendar days, upon his return to California and prior to the commencement of any employment where representation as an optometrist is/was provided.

Respondent's license shall be automatically cancelled if respondent's periods of temporary or permanent residence or practice outside California total two years. However, respondent's license shall not be cancelled as long as respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

13. LICENSE SURRENDER
During respondent's term of probation, if he ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy any condition of probation, respondent may surrender his license to the Board. The Board reserves the right to evaluate respondent's request and exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall

certificate, respondent will no longer be subject to the conditions of probation. All costs incurred (i.e., Cost Recovery and Probation Monitoring) are due upon reinstatement.

Surrender of respondent's license shall be considered a Disciplinary Action and shall become a part of respondent's license history with the Board.

14. VIOLATION OF PROBATION

If respondent violates any term of the probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended until the matter is final. No petition for modification of discipline shall be considered while there is an accusation or petition to revoke probation or other discipline pending against respondent.

15. COMPLETION OF PROBATION

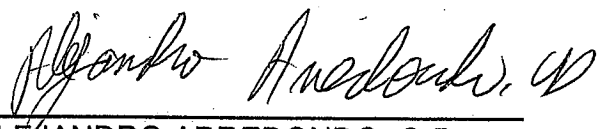
Upon successful completion of probation, respondent's license shall be fully restored.

16. SALE OR CLOSURE OF AN OFFICE AND/OR PRACTICE

If respondent sells or closes his office after the imposition of administrative discipline, respondent shall ensure the continuity of patient care and the transfer of patient records. Respondent shall also ensure that patients are refunded money for work/services not completed or provided, and shall not misrepresent to anyone the reason for the sale or closure of the office and/or practice. The provisions of this condition in no way authorize the practice of optometry by the respondent during any period of license suspension.

This Decision shall become effective on April 1, 2015.

IT IS SO ORDERED this 2nd day of March, 2015.



ALEJANDRO ARREDONDO, O.D.
Board President

BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	
RICHARD PAUL ARMSTRONG,	Case No. 2011-214
License No. 9196	OAH No. 2013110541
Respondent.	

TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

ORDER FIXING DATE FOR SUBMISSION OF WRITTEN ARGUMENT

The transcript of the hearing in the above-entitled matter having now become available, the parties are hereby notified of the opportunity to submit written arguments in accordance with the Order of Rejection of Proposed Decision dated December 10, 2014. In addition to any arguments the parties may wish to submit, the board is interested in argument directed at the Respondent's rehabilitation.

Pursuant to said Order, written argument shall be filed with the Board of Optometry, 2450 Del Paso Road, Suite 105, Sacramento, CA on or before December 31, 2014. **No new evidence may be submitted.**

IT IS SO ORDERED this 11th day of December, 2014.

Alejandro M. Anelonis, OD.

President
Board of Optometry

BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	
RICHARD PAUL ARMSTRONG,	Case No. 2011-214
License No. 9196	OAH No. 2013110541
Respondent.	

ORDER OF REJECTION OF PROPOSED DECISION

Pursuant to Section 11517 of the Government Code, the Proposed Decision of the Administrative Law Judge in the above entitled matter is rejected. The Board will decide the case under the provisions of Government Code Section 11517(c)(2)(E). In accordance with Government Code Section 11517 11517(c)(2)(E)(ii), you may submit written argument to the Board. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

IT IS SO ORDERED this 10th day of December, 2014.

Alejandro Arredondo, OD
President
Board of Optometry

BEFORE THE
BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: RICHARD PAUL ARMSTRONG, Respondent.	Case Nos. 2011-214 OAH No. 2013110541

PROPOSED DECISION

Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings heard this matter on September 24, 2014, in Los Angeles, California.

Deputy Attorney General Matthew King represented complainant.

Richard Paul Armstrong (respondent) appeared personally and was represented by Michelle Dean, Attorney at Law.

Evidence was received and the record was left open to allow respondent to submit letters of reference. The reference letters were received on October 10, 2014. Complainant did not file a response. The reference letters were marked collectively as Exhibit A and admitted as administrative hearsay (See Government Code section 11513, subdivision (d).

The matter was submitted for decision on October 14, 2014. The Administrative Law Judge finds as follows:

FACTUAL FINDINGS

1. Complainant Mona Maggio filed the Accusation in her official capacity as Executive Officer of the Board of Optometry, Department of Consumer Affairs (Board).

2. On August 17, 1989, the Board issued Optometrist License No. OPT 9196 to Respondent. Said license is in full force and effect.

3. On April 15, 2011, in the Superior Court of California, County of Los Angeles (Case No. 0SY09233), respondent entered a plea of nolo contendere and was convicted of violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol or drugs (DUI), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for 36 months on certain conditions, including, inter alia, payment of a $1,738 in fines and fees, and completion of a three-month alcohol and drug counseling program. Respondent paid the fine and completed the alcohol counseling program. In fact, respondent completed the alcohol counseling program prior to entering his plea in the superior court.

4. The facts and circumstance underlying the conviction were that on September 11, 2010, at 1:15 a.m., respondent drove his vehicle while under the influence of alcohol and prescribed drugs. While driving his vehicle in this condition, respondent approached a Y intersection with a raised triangle median. He drove over the curb and onto the raised median, striking a street sign and a small PVC flagpole. Respondent was not hurt and his car sustained only minor damage. A police officer who investigated the accident approached respondent's vehicle and questioned respondent. Respondent told the officer that as he approached the Y intersection, he was going to travel eastbound to his home, then at the last second changed his mind and decided to take the southbound lane to Blockbuster video. As the officer spoke with respondent, he noticed that respondent's eyes were "very glossy," and his speech was slurred. The officer also detected a strong odor of alcohol on respondent's breath. Respondent exited the vehicle at the officer's request. Respondent stumbled twice upon exiting and needed to use the side of his vehicle to support himself. The police officer then requested that a police officer from the DUI Task Force conduct an investigation.

5. The DUI Task Force police officer conducted a field sobriety test on respondent at approximately 1:40 a.m. and determined that respondent was unable to properly perform the field sobriety test. Respondent consented to a blood test, which was drawn from respondent at 2:20 a.m. The blood sample was analyzed for drugs and alcohol. The final test results were positive for the drugs Diazepam (332 ng/ml), Nordiazepam (423 ng/ml), Oxazepam (no amount noted), Temazepam (no amount noted), and Vicodin (no amount noted).[1] Respondent's blood alcohol concentration was .11 percent. There was no expert testimony introduced to indicate whether the amounts of drugs detected in respondent's blood would have had an effect on respondent's sobriety on the night of the incident, or whether these amounts would have increased the level of respondent's intoxication.

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[1] Diazapam is a psychotropic drug generally prescribed for the management of anxiety disorders. Nordiazepam is a drug that has anticonvulsant, anxiolytic, muscle relaxant, and sedative properties. Oxazepam is a drug that is prescribed for the treatment of anxiety and insomnia. Temazepam is a drug that is generally prescribed for sleeplessness. Vicodin is a brand name for Hydrocodone generally prescribed to treat pain. All of the aforementioned drugs are controlled substances under Health and Safety Code section 11057, and are considered dangerous drugs under Business and Profession Code section 4022.

6. Respondent expressed remorse for his conduct and stated that he immediately informed his adult children of his arrest for DUI. Further, respondent informed the Board shortly after his conviction. He testified that his conduct on the night of his arrest was an aberration. He suffered a back injury in the past and has taken prescription drugs. He had taken Vicodin for pain the day before his arrest and Diazapam for sleep the night before his arrest. On the night of the incident he drank some wine and took a Sudafed pill before driving.

7. Prior to his DUI arrest, respondent had worked for Lens Crafters for 25 years with no prior discipline or complaints. Since the Accusation was filed, respondent has had difficulty maintaining employment. However, he returned to Lens Crafters this year, working substitute optometrist.

8. Respondent submitted reference letters, one of which is from his colleague Dr. Karen K Yeung. Dr. Yeung noted that respondent exhibited "integrity and high optometry skills. He never appeared intoxicated or under the influence of any drugs/medications. He never had any smell of alcohol. In fact, he presented himself quite professionally. He was never late or unexpectedly absent for work. He has high work ethics." A second letter was written by Michelle Moore, General Manager for Lens Crafters in Salinas, California, noted that "[respondent] was always on time, professional, and gave excellent patient care. His prescriptions were accurate, and the patients even referred friends and family to our office because they were satisfied with the care they received. I was never concerned that Dr. Armstrong was under the influence of alcohol or any other substance." (Exhibit A.).

9. In addition to his excellent work habits, respondent has maintained a good relationship with his family. His son wrote a letter detailing attesting to respondent's conduct before and since his arrest for DUI. He wrote:

> [Respondent] was transparent with my younger brother and me throughout the whole process of meeting the state's demands in regards to his DUI. He was sure to impart to me the lesson of the dangers and consequences of driving under the influence and demonstrating the repercussions of such actions. . . . He has done his best to make sure the DUI did not impact my brother or my life negatively. He has continued to maintain steady work. He exercises and swims frequently. He has shown diligence and care in handling this situation, met all demands the state has placed on him and has taken care to be a good father while keeping the whole process transparent for me. . . . I write this to vouch for my father's excellent behavior before and since the incident. (Exhibit A.).

10. Respondent's testimony that his conduct on the night of his arrest was an aberration was credible. Respondent is a 52-year-old man with no prior convictions. He has an excellent work history and other than this one incident, there was no evidence that he has exhibited conduct which would be considered red flags of an alcoholic or drug abuser.

11. Complainant presented evidence of costs of investigation and enforcement totaling $6,960. These costs are deemed reasonable under Business and Professions Code section 125.3.

LEGAL CONCLUSIONS

1. Cause exists to impose discipline on the optometrist license previously issued to respondent under Business and Professions Code sections 490 and 3110, subdivision (k), for unprofessional conduct in that respondent was convicted of a crime substantially related to the duties, functions and qualifications of a licensed optometrist.

2. Cause exists to impose discipline on the optometrist license previously issued to respondent under Business and Professions Code section 3110, subdivision (l), for unprofessional conduct in that respondent used alcohol and drugs to an extent or in a manner dangerous or injurious to himself or others as set forth in Factual Findings 5 and 6.

3. Cause exists to impose discipline on the optometrist license previously issued to respondent under Business and Professions Code section 3110, subdivision (f), for unprofessional conduct in that respondent's conduct of driving under the influence of drugs and/or alcohol would have warranted denial of a license.

4. Cause exists to impose discipline on the optometrist license previously issued to respondent under Business and Professions Code section 3110, subdivision (a), for violating statutes and regulations regulating the conduct of optometrists.

5. Cause exists to order Respondent to pay reasonable costs of investigation and prosecution of this matter in the amount of $6,960 under Business and Professions Code section 125.3, based on Factual Finding 11.

6. The Board has issued disciplinary guidelines which include factors in aggravation and mitigation as follows:

EVIDENCE IN AGGRAVATION OF DISCIPLINE

1. Patient's trust, health, safety or well-being was jeopardized.

2. Patient's or employer's trust violated (e.g., theft, embezzlement, fraud).

3. History of prior discipline.

4. Patterned behavior: Respondent has a history of one or more violations or convictions related to the current violation(s).

5. Perjury on official Board forms.

6. Violent nature of crime or act.

7. Violation of Board Probation.

8. Failure to provide a specimen for testing in violation of terms and conditions of probation.

9. Commission of any crime against a minor, or while knowingly in the presence of, or while caring for, a minor.

EVIDENCE IN MITIGATION OF DISCIPLINE

1. Recognition by Respondent of his or her wrongdoing and demonstration of corrective action to prevent recurrence.

2. Respondent was forthcoming and reported violation or conviction to the Board.

3. A substantial amount of time since the violation or conviction occurred.

4. No prior criminal or disciplinary history.

7. Respondent's conduct, which is the basis for discipline, did not include any of the above factors in aggravation. Respondent did not jeopardize patient safety or trust. He has no history of prior violations or pattern of misconduct related to the current violation. Finally, respondent has not committed acts of violence or dishonesty; nor has he violated any terms or conditions of probation.

8. In contrast to the lack of evidence in aggravation, respondent satisfied all of the above referenced factors in mitigation. Respondent recognized his wrongdoing and was remorseful for his misconduct as evidenced by his willingness to tell his children of his arrest and his subsequent conviction. He demonstrated corrective action to prevent reoccurrence by completing his probationary conditions early and by voluntarily taking and completing an alcohol and drug counseling program before entering his plea in the superior court. Respondent was forthcoming in that he informed the Board of his conviction shortly after entering his plea. Finally, four years have elapsed since respondent committed the offense and there was no evidence of prior or subsequent misconduct.

9. Through its enactment of Business and Professions Code section 315, the legislature established a Substance Abuse Coordinating Committee (comprised of the executive officers of the healing arts boards) to formulate uniform standards dealing with "substance abusing licensees." These standards include, inter alia, requirements for clinical diagnostic evaluations of licensees, temporary removal of the licensees pending a clinical evaluation, requirement for group meeting attendance, and standards relating biological testing of substance abusing licensees. The Board has incorporated these standards in its optional conditions. The introduction to these standards is set forth in the guidelines and states in pertinent part:

> §1575. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines
>
> In reaching a decision on a disciplinary action under the Administrative Procedures Act (Government Code Section 11400 et seq.), the Board of Optometry shall comply with the "Uniform Standards Related to Substance Abuse" (Uniform Standards) and consider the "Disciplinary Guidelines"(DG-4, 5-2012) which are hereby incorporated by reference. The Disciplinary Guidelines apply to all disciplinary matters; Uniform Standards apply to a substance-abusing licensee.
>
> (a) Subject to subdivision (b), deviation from the Disciplinary Guidelines, including the standard terms of probation, is appropriate where the Board, in its sole discretion, determines that the facts of the particular case warrant such a deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.
>
> (b) If the conduct found to be a violation involves drugs and/or alcohol, the licensee shall be presumed to be a substance-abusing licensee for purposes of Section 315 of the Code. If the licensee does not rebut that presumption, then the Uniform Standards for substance-abusing licensees shall apply.
>
> UNIFORM STANDARDS FOR SUBSTANCE ABUSING LICENSEES
>
> Pursuant to Business and Professions Code section 315, the following standards shall be adhered to in all cases in which an optometrist's license is placed on probation because the optometrist is a substance-abusing licensee. These standards are not guidelines and shall be followed in all instances, except that the Board may impose more restrictive conditions if necessary to protect the public.

10. The evidence did not establish that respondent is a "substance-abusing licensee" as that term is used in Business and Professions Code section 315. A review of this statute suggests that the term "substance-abusing licensee" refers to a licensee that has a

current substance abuse problem rather than a licensee such as respondent who committed a one-time DUI where his blood alcohol content was only .03 percent above the legal limit. Section 315, subdivision (c)(2), provides for the temporary removal of a licensee from practice pending a clinical diagnostic evaluation and treatment. Subdivision (c)(16), directs disciplinary boards to establish measurable criteria to determine if a board's "method of dealing with substance abusing licensees protects patients and is effective in assisting its licensees in recovering from substance abuse in the long term." The fact that the statute refers to the long-term recovery of licensees from substance abuse, and provides for removal of a license from practice, is further indication that the legislature meant to protect the public from licensees with serious and current substance abuse problems.

11. There was insufficient evidence in this case to establish that respondent is an alcoholic, drug addict, or is currently abusing drugs or alcohol. There was no evidence that respondent has exhibited a problematic pattern of alcohol or drug use manifested by certain behaviors such as recurrent alcohol or drug use in increasing amounts, a failure to perform major role obligations at work or home, recurrent social or interpersonal problems. Respondent is an optometrist with an otherwise unblemished 25-year record. A DUI conviction alone does not establish alcoholism on the part of the driver. Such was recognized by the *Court of Appeal in Griffiths v. Superior Court* (2002) 96 Cal.App.4th 767 – a case where the medical board's authority to discipline a physician for more than one DUI conviction was upheld. The Court stated: "[it] is undoubtedly true that not every conviction involving alcohol warrants the suspension or revocation of a professional license. . . ." (*Griffiths v. Superior Court, supra,* 96 Cal.App.4th at 779.) To be sure, the court went on to say that such a conviction might reflect a personal problem involving alcohol consumption that might allow action before the licensee's practice was affected by such a personal problem. In this case, there was no evidence indicating that respondent currently has such a personal problem. In fact, the evidence established that respondent is a highly skilled practitioner, with no indicia of alcohol or drug dependence. Respondent presented sufficient evidence to rebut the presumption that he is a "substance-abusing licensee."

12. The purpose of proceedings of this type is to protect the public, and not to punish an errant licensee. (E.g., *Camacho v. Youde* (1979) 95 Cal.App.3d 161, 164; *Bryce v. Board of Medical Quality Assurance* (1986) 184 Cal.App.3d 1471, 1476; *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784-786.) Indeed, such a mission—public protection—has been given to the Board by the legislature pursuant to Business and Profession Code section 2708.1.

13. While recidivism is unlikely in this case, there is cause for concern because of the combination of drugs and alcohol in respondent's system. Further, respondent exhibited a lack of good sense and judgment by driving while under the influence. Based on all of the facts and circumstances of this case, the public would be adequately protected by an order imposing a two-year probationary period under standard conditions.

ORDER

IT IS HEREBY ORDERED that Optometrist License Number OPT 9196 issued to respondent Richard Paul Armstrong is revoked. However, the revocation is stayed and respondent's Optometrist License is placed on probation for two years on the following conditions.

SEVERABILITY CLAUSE

Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. OBEY ALL LAWS

Respondent shall obey all federal, state, and local laws, governing the practice of optometry in California. Respondent shall notify the Board in writing within 72 hours of any incident resulting in his arrest, or charges filed against, or a citation issued against respondent.

CRIMINAL COURT ORDERS: If respondent is under criminal court orders by any governmental agency, including probation or parole, and the orders are violated, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

OTHER BOARD OR REGULATORY AGENCY ORDERS: If respondent is subject to any other disciplinary order from any other health-care related board or any professional licensing or certification regulatory agency in California or elsewhere, and violates any of the orders or conditions imposed by other agencies, this shall be deemed a violation of probation and may result in the filing of an accusation or petition to revoke probation or both.

2. QUARTERLY REPORTS

Respondent shall file quarterly reports of compliance under penalty of perjury to the probation monitor assigned by the Board. Quarterly report forms will be provided by the Board (DG-QR1 (05/2012)). Omission or falsification in any manner of any information on these reports shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against respondent's optometrist license. Respondent is responsible for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each year of probation throughout the entire length of probation as follows:

- For the period covering January 1st through March 31st, reports are to be completed and submitted between April 1st and April 7th.

- For the period covering April 1st through June 30th, reports are to be completed and submitted between July 1st and July 7th.

- For the period covering July 1st through September 30th, reports are to be completed and submitted between October 1st and October 7th.

- For the period covering October 1st through December 31st, reports are to be completed and submitted between January 1st and January 7th.

Failure to submit complete and timely reports shall constitute a violation of probation.

3. COOPERATE WITH PROBATION MONITORING PROGRAM
Respondent shall comply with the requirements of the Board's probation monitoring program, and shall, upon reasonable request, report or personally appear as directed.

Respondent shall claim all certified mail issued by the Board, respond to all notices of reasonable requests timely, and submit Reports, Identification Update reports or other reports similar in nature, as requested and directed by the Board or its representative.

Respondent is encouraged to contact the Board's probation monitoring program representative at any time he has a question or concern regarding his terms and conditions of probation.

Failure to appear for any scheduled meeting or examination, or cooperate with the requirements of the program, including timely submission of requested information, shall constitute a violation of probation and may result in the filing of an accusation and/or a petition to revoke probation against respondent's Optometrist license.

4. PROBATION MONITORING COSTS
All costs incurred for probation monitoring during the entire probation shall be paid by the respondent. The monthly cost may be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms and conditions may also cause this amount to be increased.

All payments for costs are to be sent directly to the Board of Optometry and must be received by the date(s) specified. (Periods of tolling will not toll the probation monitoring costs incurred.)

If respondent is unable to submit costs for any month, he/she shall be required, instead, to submit an explanation of why he is unable to submit the costs, and the date(s) he will be able to submit the costs, including payment amount(s). Supporting documentation and evidence of why respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, respondent understands that by providing evidence and supporting documentation of financial hardship it may delay further disciplinary action.

In addition to any other disciplinary action taken by the Board, an unrestricted license will not be issued at the end of the probationary period and the optometrist license will not be renewed, until such time as all probation monitoring costs have been paid.

5. FUNCTION AS AN OPTOMETRIST
Respondent shall function as an optometrist for a minimum of 60 hours per month for the entire term of his probation period.

6. NOTICE TO EMPLOYER
Respondent shall provide to the Board the names, physical addresses, mailing addresses, and telephone number of all employers and supervisors and shall give specific, written consent that the licensee authorizes the Board and the employers and supervisors to communicate regarding the licensee's work status, performance, and monitoring. Monitoring includes, but is not limited to, any violation of any probationary term and condition.

Respondent shall be required to inform his employer, and each subsequent employer during the probation period, of the discipline imposed by this decision by providing his supervisor and director and all subsequent supervisors and directors with a copy of the decision and order, and the accusation in this matter prior to the beginning of or returning to employment or within 14 calendar days from each change in a supervisor or director.

The respondent must ensure that the Board receives written confirmation from the employer that he is aware of the Discipline, on forms to be provided to the Respondent (DG-Form 1 (05/2012)). Respondent must ensure that all reports completed by the employer are submitted from the employer directly to the Board. Respondent is responsible for contacting the Board to obtain additional forms if needed.

7. CHANGES OF EMPLOYMENT OR RESIDENCE
Respondent shall notify the Board, and appointed probation monitor in writing, of any and all changes of employment, location, and address within 14 calendar days of such change. This includes but is not limited to applying for employment, termination or resignation from employment, change in employment status, and change in supervisors, administrators or directors.

Respondent shall also notify his probation monitor AND the Board IN WRITING of any changes of residence or mailing address within 14 calendar days. P.O. Boxes are accepted for mailing purposes; however respondent must also provide his/her physical residence address as well.

8. COST RECOVERY
Respondent shall pay to the Board a sum not to exceed the costs of the investigation and prosecution of this case. That sum shall be $ 6,960 and shall be paid in full directly to the Board, in a Board-approved payment plan, within six months before the end of the Probation term. Cost recovery will not be tolled.

If Respondent is unable to submit costs timely, he shall be required instead to submit an explanation of why he/she is unable to submit these costs in part or in entirety, and the date(s) he will be able to submit the costs, including payment amount(s). Supporting documentation and evidence of why respondent is unable to make such payment(s) must accompany this submission.

Respondent understands that failure to submit costs timely is a violation of probation and submission of evidence demonstrating financial hardship does not preclude the Board from pursuing further disciplinary action. However, respondent understands that by providing evidence and supporting documentation of financial hardship may delay further disciplinary action.

Consideration to financial hardship will not be given should respondent violate this term and condition, unless an unexpected AND unavoidable hardship is established from the date of this order to the date payment(s) is due.

9. TAKE AND PASS CALIFORNIA LAWS AND REGULATIONS EXAMINATION
Within 60 calendar days of the effective date of this decision, or within some other time as prescribed in writing by the Board, respondent shall take and pass the California Laws and Regulations Examination (CLRE). If respondent fails this examination, respondent must take and pass a re-examination as approved by the Board. The waiting period between repeat examinations shall be at six-month intervals until success is achieved. Respondent shall pay the established examination fees.

If respondent fails the first examination, respondent shall immediately cease the practice of optometry until the re-examination has been successfully passed; as evidenced by written notice to respondent from the Board.

If respondent has not taken and passed the examination within six months from the effective date of this decision, respondent shall be considered to be in violation of probation.

10. COMMUNITY SERVICES
All types of community services shall be at the Board's discretion, depending on the violation. Within 30 calendar days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, a community service program in which respondent provides free non-optometric or professional optometric services on a regular basis to a community or charitable facility or agency, amounting to a minimum of four hours per month of probation. Such services shall begin no later than 15 calendar days after respondent is notified of the approved program.

11. VALID LICENSE STATUS

Respondent shall maintain a current, active and valid license for the length of the probation period. Failure to pay all fees and meet CE requirements prior to his/her license expiration date shall constitute a violation of probation.

12. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE

Periods of residency or practice outside California, whether the periods of residency or practice are temporary or permanent, will toll the probation period but will not toll the cost recovery requirement, nor the probation monitoring costs incurred. Travel outside of California for more than 30 calendar days must be reported to the Board in writing prior to departure. Respondent shall notify the Board, in writing, within 14 calendar days, upon his return to California and prior to the commencement of any employment where representation as an optometrist is/was provided.

Respondent's license shall be automatically cancelled if respondent's periods of temporary or permanent residence or practice outside California total two years. However, respondent's license shall not be cancelled as long as respondent is residing and practicing in another state of the United States and is on active probation with the licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

13. LICENSE SURRENDER

During respondent's term of probation, if he ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy any condition of probation, respondent may surrender his license to the Board. The Board reserves the right to evaluate respondent's request and exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation. All costs incurred (i.e., Cost Recovery and Probation Monitoring) are due upon reinstatement.

Surrender of respondent's license shall be considered a Disciplinary Action and shall become a part of respondent's license history with the Board.

14. VIOLATION OF PROBATION

If respondent violates any term of the probation in any respect, the Board, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended until the matter is final. No petition for modification of discipline shall be considered while there is an accusation or petition to revoke probation or other discipline pending against respondent.

15. COMPLETION OF PROBATION
Upon successful completion of probation, respondent's license shall be fully restored.

16. SALE OR CLOSURE OF AN OFFICE AND/OR PRACTICE
If respondent sells or closes his office after the imposition of administrative discipline, respondent shall ensure the continuity of patient care and the transfer of patient records.

Respondent shall also ensure that patients are refunded money for work/services not completed or provided, and shall not misrepresent to anyone the reason for the sale or closure of the office and/or practice. The provisions of this condition in no way authorize the practice of optometry by the respondent during any period of license suspension.

DATED: October 30. 2014

Humberto Flores
HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
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Attorneys for Complainant

BEFORE THE
STATE BOARD OF OPTOMETRY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: RICHARD PAUL ARMSTRONG 26506 Bouquet Canyon Road Saugus, CA 91350 Optometrist License No. OPT 9196 Respondent.	Case No. CC 2011 214 ACCUSATION

Complainant alleges:

PARTIES

1. Mona Maggio ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

License History

2. On or about August 17, 1989, the State Board of Optometry ("Board") issued Optometrist License No. OPT 9196 to Richard Paul Armstrong ("Respondent"). The Optometrist License was in full force and effect at all times relevant to the charges brought herein. The license will expire on December 31, 2013, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 118, subdivision (b) of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 of the Code states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

6. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order

to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question."

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

STATUTORY PROVISIONS

7. Section 3090 of the Code states:

"Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter or any of the regulations adopted by the board. The board shall enforce and administer this article as to licenseholders, and the board shall have all the powers granted in this chapter for these purposes, including, but not limited to, investigating complaints from the public, other licensees, health care facilities, other licensing agencies, or any other source suggesting that an optometrist may be guilty of violating this chapter or any of the regulations adopted by the board."

8. Section 3110 of the Code states, in pertinent part:

"The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules and regulations adopted by the board pursuant to this chapter.

...

"(f) Any action or conduct that would have warranted the denial of a license.

...

"(k) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of an optometrist, in which event the record of the conviction shall be conclusive evidence thereof.

"(1) Administering to himself or herself any controlled substance or using any of the dangerous drugs specified in Section 4022, or using alcoholic beverages to the extent, or in a manner, as to be dangerous or injurious to the person applying for a license or holding a license under this chapter, or to any other person, or to the public, or, to the extent that the use impairs the ability of the person applying for or holding a license to conduct with safety to the public the practice authorized by the license, or the conviction of a misdemeanor or felony involving the use, consumption, or self administration of any of the substances referred to in this subdivision, or any combination thereof."

9. Section 4021 of the Code states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with section 11053) of Division 10 of the Health and Safety Code."

10. Section 4022 of the Code states:

"'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use in humans or animals, and includes the following:

"(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.

"(b) Any device that bears the statement: 'Caution: federal law restricts this device to sale by or on the order of a _____,' 'Rx only,' or words of similar import . . .

"(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1517 states, in pertinent part:

"For the purpose of denial, suspension, or revocation of the certificate of registration of an optometrist pursuant to Division 1.5 (commencing with Section 475) of the Code, a crime or act shall be considered to be substantially related to the qualifications, functions, and duties of an optometrist if to a substantial degree it evidences present or potential unfitness of an optometrist

to perform the functions authorized by his/her certificate of registration in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated.

CONTROLLED SUBSTANCES/DANGEROUS DRUGS

13. "Codeine," is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(g) and is categorized as a dangerous drug pursuant to section 4022.

14. "Amphetamine," is a Schedule II controlled substance pursant to Health and Safety Code section 11055(d)(1) and dangerous drug per Section 4022 of the Code.

15. "Benzodiazepine" is a Schedule IV controlled substance pursuant to Health and Safety Code Section 11057(d) and a dangerous drug per Section 4022 of the Code. In general, benzodiazepines act as hypnotics in high doses, anxiolytics in moderate doses, and sedatives in low doses.

16. "Opiate" is a Schedule II controlled substance pursuant to Health and Safety Code Section 11055(b)(1) and dangerous drug per section 4022 of the Code.

17. "Vicodin" is the brand names for a narcotic, which contains a combination of Acetaminophen (aka APAP) and Hydrocodone. This narcotic is generally prescribed to treat moderate to severe pain. It is designated as a Schedule II controlled substance per Health and Safety Code section 11055(b)(1)(I), and categorized as a dangerous drug per section 4022 of the Code.

18. "Diazepam" is a schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(9) and is a dangerous drug per section 4022 of the Code. Diazepam is a psychotropic drug for the management of anxiety disorders or for the short-term relief of the

symptoms of anxiety. It can produce psychological and physical dependence and it should be prescribed with caution particularly to addiction-prone individuals (such as drug addicts and alcoholics) because of the predisposition of such patients to habituation and dependence.

19. "Nordiazepam" is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d) and the Federal Code of Regulations, title 21, section 1308.14, subdivision (c)(38). Nordiazepam is a benzodiazepine. Nordiazepam has anticonvulsant, anxiolytic, muscle relaxant, and sedative properties.

20. "Oxazepam" is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(23) and the Federal Code of Regulations, title 21, section 1308.14. Oxazepam is a benzodiazepine used for the treatment of anxiety and insomnia and to control the symptoms of alcohol withdrawal.

21. "Temazepam" is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(29). Temazepam, sold under the trade name Restoril, is a dangerous drug per section 4022 of the Code. Temazepam is generally prescribed for the short-term treatment of sleeplessness in patients who have difficulty maintaining sleep. In addition, Temazepam has anxiolytic (anti-anxiety), anticonvulsant, and skeletal muscle relaxant properties.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

22. Respondent is subject to disciplinary action under section 3110, subdivision (k), and 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1517 for unprofessional conduct in that Respondent has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed optometrist.

a. On April 15, 2011, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving while under the influence of alcohol or drugs] in the criminal proceeding entitled *The People of the State of California v. Richard Paul Armstrong* (Super. Ct. Los Angeles County, 2011, No. 0SY09233). The Court placed Respondent on 36 months probation, with terms and conditions.

b. The circumstances surrounding the conviction are that on September 11, 2010, during an investigation of a single vehicle traffic collision by the Palos Verdes Estate Police Department, Respondent was contacted. The officer detected a strong odor of an alcoholic beverage emitting from the Respondent. Officers asked Respondent to exit his car. He was observed to have glossy eyes, slurred speech, stumbled twice as he exited the vehicle, and needed to use the side of his car to support himself. After Respondent was arrested, he admitted to taking Codeine. Respondent submitted to a chemical blood test, which returned positive for Amphetamines, Benzodiaepines, and Opiates. On or about September 21, 2010, the test indicated a Blood Alcohol Content ("BAC") of 0.11%. On or about February 15, 2011, a confirmatory test returned positive for hydrocodone (Vicodin). On or about February 23, 2011, the test returned positive for Diazepam, Nordiazepam, Oxazepam, and Temazepam.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol, Controlled Substances, and Dangerous Drugs)

23. Respondent is subject to disciplinary action under section 3110, subdivision (l) for unprofessional conduct in that on or about September 11, 2010, Respondent used alcoholic beverages, controlled substances, and dangerous drugs to an extent or in a manner dangerous or injurious to himself, another person, or the public. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 22, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Any action or conduct that would have warranted the denial of a license)

24. Respondent is subject to disciplinary action under section 3110, subdivision (f) in that Respondent's action or conduct would have warranted the denial of a license. Complainant refers to, and by this reference incorporate, the allegations set forth above in paragraphs 22 through 23, inclusive, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Violating or Attempting to Violate Provisions of the Chapter)

25. Respondent is subject to disciplinary action under section 3110, subdivision (a) in that Respondent violated or attempted to violate, directly or indirectly assisting in or abetting the

violation of, or conspiring to violate any provision of this chapter or any of the rules or regulations adopted by the board pursuant to this chapter. Complainant refers to, and by this reference incorporate, the allegations set forth above in paragraphs 22 through 24, inclusive as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Optometrist License No. OPT 9196, issued to Richard Paul Armstrong;

2. Ordering Richard Paul Armstrong to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3 of the Code; and

3. Taking such other and further action as deemed necessary and proper.

DATED: August 5, 2013

MONA MAGGIO
Executive Officer
State Board of Optometry
Department of Consumer Affairs
State of California
Complainant

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BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY
EDMUND G. BROWN JR., GOVERNOR

CALIFORNIA STATE BOARD OF
OPTOMETRY

STATE BOARD OF OPTOMETRY
2450 DEL PASO ROAD, SUITE 105, SACRAMENTO, CA 95834
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CERTIFICATION

The undersigned, Jessica Sieferman hereby certifies as follows:

> *That she is the duly appointed, acting and qualified Executive Officer of the California State Board of Optometry (Board), and that in such capacity she has custody of the official records of the Board.*

On this 28th day of April 2016, the Executive Officer examined said official records of the Board and found that **RICHARD PAUL ARMSTRONG** graduated from the Southern California School of Optometry in 1989 and is the holder of Optometry License No. 9196, which was granted to him effective August 17, 1989. The current address of record for said Optometry License is 25907 Pueblo Dr, Valencia, CA 91355.

Said records further reveal that on or about December 21, 1998, **RICHARD PAUL ARMSTRONG** became certified to utilize Therapeutic Pharmaceutical Agents and is authorized to diagnose and treat the conditions listed in subdivision (b), (d), and (e) of Section 3041.

Said records further reveal that on or about August 5, 2013, the Board filed an Accusation against **RICHARD PAUL ARMSTRONG,** in Case No. CC 2011-214. The Board, by Decision and Order effective April 1, 2015, adopted a Final Decision After Rejection of Proposed Decision resolving said Accusation. Optometry License No. 9196 was revoked, the revocation was stayed and the license was placed on probation for three (3) years.

Given under my hand and the seal of the State Board of Optometry, at Sacramento, California, this 28th day of April 2016.

Jessica Sieferman, Executive Officer

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
(916) 575-7170, (916) 575-7292 Fax
www.optometry.ca.gov

To: Board Members **Date:** May 27, 2016

From: Board Staff **Telephone:** (916) 575-7170

Subject: **Agenda Item 15 - FULL BOARD CLOSED SESSION**

Pursuant to Government Code Section 11126(c)(3), the Board Will Meet in Closed Session for Discussion and Possible Action on Disciplinary Matters.

CALIFORNIA STATE BOARD OF OPTOMETRY

Memo

2450 Del Paso Road, Suite 105
Sacramento, CA 95834
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www.optometry.ca.gov

To: Board Members

Date: May 27, 2016

From: Madhu Chawla, OD
Board President

Telephone: (916) 575-7170

Subject: **Agenda Item 16 – Adjournment**