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**Dispensing Optician Committee
 Teleconference Draft Meeting Minutes**

**Thursday, January 30, 2020
 Approved Meeting Minutes**

MEMBERS OF THE COMMITTEE

Martha "Ruby" Garcia, CLD, SLD, Chair
 William Kysella, Jr, Vice Chair
 Adam Bentley, SLD
 Kanchan Mattoo
 Anna Watts, SLD

Teleconference Meeting Locations:

Department of Consumer Affairs,
 Sequoia Room (1st Fl Rm 109)
 2420 Del Paso Road
 Sacramento, CA 95826

Charter College
 Oxnard Campus
 2000 Outlet Center Dr.,
 Suite 150
 Oxnard, CA 93036

Van Nuys State Building
 6150 Van Nuys Blvd.,
 Rm 410
 Van Nuys, CA 91401

RE San Francisco Public Library
 100 Larkin Street,
 Stong Conference Room
 San Francisco, CA 94102

Members Present	Staff Present
Martha Garcia, CLD, SLD, Chair	Cheree Kimball, Assistant Executive Officer
William Kysella, Jr, Vice Chair	Marc Johnson, Policy Analyst
Adam Bentley, SLD	Natalia Leeper, Opticianry Program Licensing Analyst
Kanchan Mattoo	Alex Juarez, Opticianry Program Enforcement Analyst
Anna Watts, SLD	Sabina Knight, Legal Counsel
Members Absent	Guest List
	On File

Link to audio of meeting:

https://www.optometry.ca.gov/meetings/20200130_doc_audio.mp3

1. Call to Order/Roll Call

Audio of Discussion: 00:29 / 01:33:08

Committee Chair, Martha Garcia called the meeting to order and took roll. Ms. Garcia was present at the Oxnard location; Kanchan Mattoo and William Kysella were present at the Van Nuys location; Adam Bentley was present at the San Francisco location; and Anna Watts was present at the Sacramento location.

There were three public members at the Sacramento location.

2. Public Comment for Items Not on the Agenda

Note: The Committee 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 §11125, §11125.7(a)].

Audio of Discussion: 01:41 / 01:33:08

There were no public comments.

3. Discussion and Possible Approval of Committee Minutes from December 13, 2019

Audio of Discussion: 02:06 / 01:33:08

There were no public comments.

Kanchan Mattoo moved to approve the December 13, 2019 meeting minutes. Anna Watts seconded. The Committee voted unanimously (5-0) and the motion passed.

Member	Aye	No	Abstain	Absent	Recusal
Garcia	X				
Kysella	X				
Bentley	X				
Mattoo	X				
Watts	X				

4. Chair's Report

A. Potential Invitations to Optician College Administrations

Audio of Discussion: 03:53 / 01:33:08

Ms. Garcia announced that the new year will welcome new college opticianry programs throughout California. The Committee may benefit from inviting administrators for new and developing college opticianry programs to future Committee Meetings. The invitation would encourage administrators to give the Committee an outline of their courses and expectations for their Opticianry education programs. Colleges could have the opportunity

to share information about different program types, program lengths, testing requirements, testing outcomes, and post-graduation career opportunities. The information provided may lend to a better understanding of how colleges plan to test students on the laws and regulations of the profession.

Mr. Mattoo asked if the Committee could ask the Administrators questions regarding what they view as useful subjects for continuing education. Ms. Garcia confirmed that continuing education questions would be appropriate. Mr. Mattoo suggested that the Committee should ask the Administrators to prepare for the meeting(s) information regarding what continuing education topics would be most beneficial to opticians, then try to push those items through since our new Governor may be open to more continuing education.

Ms. Garcia asked the Members two questions: 1) Should the meeting be an in-person meeting invitation or teleconference? 2) Should the Committee develop questions beforehand for which the Administrators can be prepared to answer at the scheduled meeting? She offered the following examples: Are they planning on preparing a laws and regulations exam? If so, what is their plan for implementation and frequency? How will they obtain Subject Matter Experts (SMEs)?

Policy Analyst, Marc Johnson asked for clarification as to why the Committee would ask the Administrators to present on laws and regs; would the purpose be to assist them with potential ideas for preparation? Ms. Garcia clarified the purpose would be to advise the Board about what it would take to prepare a law and regs exam. It would simply be to prepare them.

Opticianry Program Licensing Analyst, Natalia Leeper explained that all Department of Consumer Affairs boards administer their law exams via Population Services International (PSI) and Office of Professional Examination Services (OPES), who collectively develop the law and regs exams. The colleges may provide preparatory classes for the exam, but they would not be developing and administering the law exam itself.

Mr. Kysella noted that the Committee needs to occasionally meet as a body. Teleconference calls do not lend themselves to presentations from the outside. Therefore, he believes it would make sense to have them come when the Committee is meeting together in person in one place. Mr. Mattoo agreed.

Mr. Bentley agreed that an in-person meeting makes the most sense; Additionally, he stated that he would like to find out how this Committee can support the growing programs. He would position his question this way when meeting the Administrators.

Ms. Garcia stated she will provide Mr. Johnson, Ms. Leeper, and Executive Officer, Shara Murphy with a list of the Administrators and Regional Managers names and contact emails so the staff may contact them.

There were no public comments.

B. Potential Invitations to College Advisory Boards

Audio of Discussion: 12:10 / 01:33:08

Ms. Garcia announced that many of the new college Opticianry programs in California will be added by an Advisory Board. The Advisory Boards are comprised of leaders from the industry that have been invited to provide direction to colleges regarding expectations and requirements. Many Advisory Boards will meet annually to review and discuss outcomes and potential changes to their Opticianry programs. A College Advisory Board's Report will be accessible through those college's webpages. The reports are set out to include information about the program including community outreach. The Committee may benefit from inviting the Advisory Board members to a future meeting to share information on how colleges are developing educational tools for opticians.

Ms. Garcia added that stakeholders are also involved with the Advisory Board and communicate with the board as well. They will be a part of the Advisory Board meeting as well. When these stakeholders decide what they would like the colleges to do, this information will be posted on the website. Nevertheless, Ms. Garcia suggested inviting the stakeholders to the meeting with the Administrators as well. She asked for the Members thoughts regarding this idea.

For clarification, Mr. Bentley asked if the Advisory Board will be talking specifically about curriculum? Ms. Garcia clarified that they will discuss curriculum, but they will also talk about what they feel is working upon hiring a student; whether they feel the student needs more training in certain subjects, and the courses the colleges are teaching.

Mr. Bentley commented that since the Committee plans to meet in person, it would be a good idea to meet with everyone involved.

There were no public comments.

5. Executive Officer's Report

A. Optician Licensing Program

Audio of Discussion: 14:58 / 01:33:08

Ms. Leeper provided an update on the optician licensing program. She reported that the processing time for initial application approvals is stable now at 4-6 and is consistent. She has managed to keep it consistently at 4-6 weeks for the past couple months. She also

reported that at the last meeting, Mr. Bentley requested the statistics for the ABO and NCLE pass rates in comparison to California as well as nationally. The California pass rate for the ABO Exam is 50% which is lower than the 63% national average. The NCLE pass rate is around 48% which is lower than the national average of 62%.

Ms. Leeper announced that several changes have been implemented into BreEZe preventing applicants from submitting incorrect applications. The changes are shortening application processing times and saving staff time.

Mr. Bentley clarified that the data he is interested in obtaining is: How many of the folks passing the ABO are becoming registered with the state? Ms. Leeper replied that many of opticians do not apply for licensure immediately after taking the exam. She has seen them take up to six months after passing to apply for registration. She explained she will need to look at a years-worth of data to obtain an accurate representation of what that looks like. Ms. Leeper assured that she will bring this information to the April 3rd meeting.

Ms. Garcia asked if the ABO pass rate in August (163 of 323), according to the memo, is for California only, or if it is national? Ms. Leeper confirmed that these numbers are specifically for California. Ms. Garcia commented that it is the Committee's role to help applicants prepare for their examination. She suggested discussing ways to offer more ABO and NCLE reviews; And how to do this logistically and complementary. Ms. Leeper noted that having talks with the colleges will help the Board/Committee have a better understanding of what information they are missing.

There were no public comments.

B. Optician Enforcement Program

Audio of Discussion: 22:21 / 01:33:08

Enforcement Analyst, Alex Juarez presented on the Optician Enforcement Program. He reported that in the second quarter of the fiscal year 2019-2020, CSBO Opticianry Enforcement Staff:

- received a total of 34 new cases,
- closed 41 cases with no action,
- has 4 cases pending with the Attorney General's Office,
- processed 1 disciplinary order, and
- granted one Petition for Early Termination of Probation.

Most cases received by the Opticianry Enforcement Program were criminal conviction cases (44%). The second-largest case complaint type was unlicensed/unregistered cases (29%). The remaining cases included unprofessional conduct (18%) and non-jurisdictional cases (9%).

90% of case closures for the Opticianry program occurred within one year of the receipt of the initial case.

In the second quarter of Fiscal Year 2019-2020, the Board took the following Disciplinary Actions:

Chavez, Elizabeth (SLD 40475) Camarillo, CA
Effective December 4, 2019, the registration of Elizabeth Chavez (SLD 40475), with an address of record in Camarillo, CA was revoked for a Criminal Conviction for DUI (BPC §§ 490, 2555.1, 2559.3 and CCR, title 16 §1399.270). [Click here to obtain a copy of the action or view the doctor's profile.](#)

Savage, Rebecca Janine (SLD 6065) Riverbank, CA
On September 5, 2019, Rebecca Janine Savage (SLD 6065), with an address of record in Riverbank, CA filed a Petition for Early Termination of Probation (Petition). Respondent's Spectacle Lens Registration was placed on probation for three years effective April 20, 2018. A quorum of the California State Board of Optometry heard the Petition on October 25, 2019. The Petition was granted and is effective November 22, 2019. [Click here to obtain a copy of the action or view the doctor's profile](#)

There were no public comments.

C. Opticianry Program Fund Condition

Audio of Discussion: 25:48 / 01:33:08

This agenda item was tabled until the speaker arrives; then will circle back to the fund condition.

D. Discussion of Statutorily Mandated Advisory Committee Duties

Audio of Discussion: 26:37 / 01:33:08

Ms. Murphy joined the teleconference and stated that in response to the last meeting when members discussed the desire to have more influence in the enforcement cases of the Opticianry Program; staff offered to present a listing of the statutorily-mandated responsibilities of the DOC, which are as follows:

- Recommending registration standards and criteria for the registration of dispensing opticians, nonresident contact lens sellers; spectacle lens dispensers, and contact lens dispensers.
- Reviewing of the disciplinary guidelines relating to registered dispensing opticians, nonresident contact lens sellers, spectacle lens dispensers, and contact lens dispensers.

- Recommending to the Board changes or additions to regulations adopted pursuant to Chapter 5.5 (commencing with Section 2550).
- Carrying out and implementing all responsibilities and duties imposed upon it pursuant to this chapter or as delegated to it by the Board.

Legal Counsel, Sabina Knight commented that this memo is great for Committee Members to refer to while performing their work. She added that the committees do great work for regulations; this is where much of the work gets done.

Ms. Garcia asked for clarification the next steps after the updates. Ms. Murphy explained that staff is working through the Contact Lens and Spectacle Lens Dispenser Occupational Analyses and are obtaining good indications that the Budget Change Proposal (BCP), submitted at the end of last year, will be accepted for Unregistered Assistants Occupational Analysis. Staff is in the phase of gathering as much information as possible about the profession and duties; to determine if there is a need for continuing education, a law exam, or an educational requirement; which folks are becoming the most successful and upholding consumer protection; And how the Board might be changing the way in which it regulates the profession in the next 5 to 10 years.

There were no public comments.

Regarding bullet two, Ms. Murphy reported that Staff continues to develop the Disciplinary Guidelines. Ms. Murphy asked if the Disciplinary Guidelines have been approved by the Board. Mr. Johnson replied that the Guidelines were approved by the Committee and will be presented to the full Board in February 2020.

There were no public comments.

Regarding bullet four, Ms. Murphy announced that President, Mark Morodomi wants (very much) to provide the Members an opportunity to perform a review of the disciplinary actions that have occurred within the last year.

Mr. Kysella noted, the four bullet points bring into context all the regulatory, standards, and disciplinary work the committee performs.

E. Proposed Review of Previous Enforcement Actions

Audio of Discussion: 32:40 / 01:33:08

Ms. Kimball noted that all the Board's pending and taken disciplinary actions are listed by year. This list is updated as actions occur. This page can be checked at any time to find up-to-date information regarding pending Accusations or Statements of Issues, decisions that have been rendered, and issued citations. Additionally, Ms. Murphy announced that it is staffs' intention to continue including the Enforcement Program Quarterly Report.

Ms. Garcia noted that with the college Administrators becoming involved, she imagines there will be discussions regarding requirements and education; perhaps education can assist some of these cases.

There was no public comment.

F. Committee Member Reappointment Timeline

Audio of Discussion: 41:38 / 01:33:08

Ms. Murphy reported that conversations are continuing with Agency, DCA, Executive and the Newsom Administration; but have not yet been given any official or concrete information on timelines for reappointment. She assured this will be brought back again to the next Committee meeting. Staff will try to bring back as much information as possible to each meeting.

There were no public comments.

6. Update, Discussion and Possible Action on Changes to Dispensing Optician Statutes

A. Chapter 5.4, Division 2 (Prescription Lens) of the Business and Professions Code

Audio of Discussion: 42:58 / 01:33:08

Mr. Johnson provided a quick overview:

This agenda item continues the DOC discussion on revisions to the Optician statutes. As previously stated, the intention of this review is to clarify and strengthen existing laws, increase public protection and improve efficiency of the registration process. Most of the changes are non-substantive or clarify existing requirements. It is anticipated this will be the final review by the DOC before sending to the Board for approval. A legislative author and bill will be required to implement changes, likely in the 2021 legislative session.

Ms. Leeper led the subject discussion:

Beginning with **§2550.1(c)** - DOC suggested defining fit and adjust separately. Staff requests further discussion on the terms “fit” and “fitting”.

This also related to **§2550.1(d)**: Staff requests further discussion on “adjust” and “adjusting”.

Mr. Johnson explained that Staff was able to discuss this thoroughly with Will McGuire with DCA Legal. He was able to reword certain sections.

Mr. Kysella would like the terms to be less circular.

Ms. Garcia stated the definitions are perfect words for explaining that opticians are in the process of making a change for consumers daily.

§2550.1(g): A basic definition of “unregistered assistant” was added. At the last meeting, the DOC discussed placing definitions into the individual SLD/CLD articles. Staff recommends a basic definition be added in this section, with supervision requirements already somewhat more defined in individual SLD/CLD articles.

Ms. Garcia inquired (for clarification) if staff is wanting a discussion on the duties of an unregistered assistant? Mr. Johnson clarified that staff is interested in finding out if the Committee wishes to define further what an unregistered assistant does?

Mr. Bentley believes this definition alone works; it seems clear and makes sense.

Ms. Watts believes it would be helpful as a guideline for managers to know what unregistered assistants can do.

Mr. Bentley noted that the state of Nevada does clearly outline what unlicensed individuals can do. This information is very helpful.

Mr. Kysella asked if there is a parallel structure regarding how optometric assistants are treated with respect to optometrists? Ms. Leeper replied that the unregistered assistants for optometrists is already defined further in the prescription lens section; which does define what they can do. Mr. Johnson suggested inserting a reference to “the duties as defined in B&P 2544,” which does define what a Doctor of Optometry’s unlicensed assistant can do under the direct supervision of an optometrist. He added that although there are duties an optometrist assistant can perform under the direct supervision of an optometrist that we would not want an optician to perform, this may still be used as a template for the optician program. Ms. Garcia heartedly agreed.

§2559.15: Per DOC discussion, a cap of three unregistered assistants to be supervised by a registered SLD was added. The word “individual” was replaced with “unregistered assistant”, tying in with the definition in §2550.1(g) and better defining between a registered SLD and unregistered assistant under the supervision of an SLD. Further, staff recommends addition of “physically present” on the premises so that a supervisor is required to be nearby while an unlicensed assistant performs their duties.

Ms. Garcia agrees they should be on the premises. She asked if the Board has anything in statute regarding apprenticeship? Would they need to be included in this section? Ms. Leeper explained that the Board does not currently have any statutes for education requirements which is where apprentices would fall. Although there are not any statutes currently, Ms. Leeper feels this would be ideal for discussion a year or two down the road.

Mr. Bentley noted that defining what an unlicensed assistant can do may not help someone who is studying to become an optician. Ms. Garcia agreed. She stated that for an unregistered optician planning and preparing to become an optician, listing out what they can and cannot perform may inadvertently place limitations on such an individual. Ms. Leeper noted that this is an excellent point and will require further staff research.

Mr. Kysella brought up the point that when a customer picks up their glasses and some tweaking and adjusting occurs to make the glasses sit better on the nose and around the eyes; he considers this to be “fitting and adjusting.”

Mr. Bentley expressed a concern about the crossing out of a “forgiveness” period for unusual and uncustomary absences including illness. He notes that other states do provide this. Ms. Leeper explained the reason this section was removed originally is due to a situation where an individual comes in and their optician is out, and they are seen by someone else whom they assume is an optician but is not; This could cause potential issues.

Ms. Knight noted the point is that an unregistered assistant is an unlicensed person; They may be potentially working towards licensure; nevertheless, they currently are not licensed; They are not within the Board’s jurisdiction or someone who has passed exams. She stated the Committee needs to take into consideration consumer protection regarding what you want that person to be performing alone. Ms. Leeper added that we are first and foremost a consumer protection agency. Mr. Bentley agreed. Ms. Watts recalls the original conversation and the point of removing that section was to ensure that it keeps the consumer safe.

§2560: The word “individual” was replaced with “unregistered assistant”, tying in with the definition in **§2550.1(g)** and better defining between a registered CLD and unregistered assistant under the supervision of an CLD. Further, staff recommends addition of “physically” present on the premises so that a supervisor is required to be nearby while an unlicensed assistant performs their duties.

Members agreed.

B. Chapter 5.45, Division 2 (Nonresident Contact Lens Sellers) of the Business and Professions Code

Article 2.5 – Non-Resident Ophthalmic Lens Dispensers

Audio of Discussion: 01:16:21 / 01:33:08

Based on DOC discussion, the term “Ophthalmic Device” was changed to “Ophthalmic Lens” throughout the article. The intention of this change would be to allow non-resident contact lens dispensers, properly registered with the Board, to now sell spectacle lenses within California.

There were no comments regarding these changes.

§2564.76 (old **§2546.6(a)(2)**): Based on DOC discussion, timeline was changed to eight business hours in place of “next business day”.

There were no questions or comments regarding this change.

C. Chapter 5.5, Division 2 (Registered Dispensing Opticians) of the Business and Professions Code

Audio of Discussion: 01:17:19 / 01:33:08

Article 3.5 – Registered Dispensing Ophthalmic Businesses

Several sections have been relocated into this section which pertain to ophthalmic businesses.

Ms. Leeper announced that Legal had previously reviewed this article and made their changes; additionally, it is her understanding that Legal may have some additional changes.

Mr. Johnson noted that this article does not have new language; It basically combines language already in statute or approved; This basically comes down to article construction.

There were no public comments.

William Kysella moved to direct Staff and Counsel to make any necessary formatting changes prior to presenting to the full Board. Anna Watts seconded. The Committee voted unanimously (5-0).

Member	Aye	No	Abstain	Absent	Recusal
Garcia	X				
Kysella	X				
Bentley	X				
Mattoo	X				
Watts	X				

7. Future Agenda Items

Audio of Discussion: 01:22:02 / 01:33:08

Mr. Kysella would like to keep item 5.E on the agenda for the next meeting. He noted that one of the objectives was to discuss trends and provide recommendations on how to proceed with similar cases going forward. Mr. Kysella does not believe members discussed these trends and recommendations during this meeting. Ms. Knight confirmed that there are no recommendations from this Committee as it is not agenized such; She

does not know if it would be appropriate yet for this Committee to be making any recommendations since the Disciplinary Guidelines are still pending which are the recommendations.

Mr. Kysella struck his previous comment and stated that he would like included as an action item on the next agenda “for consideration and provision of providing possible recommendations, regarding how to proceed with disciplinary cases in the future.”

Ms. Garcia would like to reach out to the state societies about coming up with the exam reviews and how it may help future applicants to be a part of her report or an agenda item at the next meeting.

Ms. Watts suggested pulling data from the examinations to see what sections of the exam’s applicants are failing. In her personal experience she has seen many individuals not focus on ophthalmic optics (more of the technical stuff) because this is something that is not in practice. Ms. Leeper assured she will contact the ABO and ask for numbers on which sections of the exams our applicants are failing. Ms. Garcia strongly agreed.

Mr. Bentley asked to continue the conversation about apprenticeship.

Mr. Mattoo stated that he would like to see if the Newsom Administration is a fan of increasing continuing education; If so, this Committee may wish to reconsider this item.

Public Member, Misty Wiggins expressed an interest in learning how many current California certificant are still holding their ABO license and renewing their continuing education; or how many are just holding their state license; have let their ABO lapse and are receiving no continuing education.

8. Adjournment