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Vacant, Public Member



**LEGISLATION AND REGULATION COMMITTEE
APPROVED MEETING MINUTES**

Friday, April 23, 2021

This public meeting was held via WebEx Events.

MEMBERS OF THE COMMITTEE

Lillian Wang, OD, Chair
Glenn Kawaguchi, OD
Mark Morodomi
David Turetsky, OD

Members Present	Staff Present
Lillian Wang, OD, Chair	Cheree Kimball, Assistant Executive Officer
Glenn Kawaguchi, OD	Marc Johnson, Policy Analyst
David Turetsky, OD	Rebecca Bon, Legal Counsel
Member Absent	
Mark Morodomi	

Link to webcast of meeting: <https://youtu.be/wg4vL5sNVRs>

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

Dr. Wang called the meeting to order at 10:00 a.m. and a 3-0 quorum was established. Mark Morodomi was not present.

2. Public Comment for Items Not on the Agenda

New Board Member Eunie Linden introduced herself and noted she was pleased to be joining the Board. There were no other comments.

3. Discussion and Possible Action on February 26, 2021 Legislation and Regulation Committee Meeting Minutes

Audio: 2:16 / 1:07:00

Members had no changes. There was no public comment.

David Turetsky moved to accept the February 26, 2021 minutes as presented. Glenn Kawaguchi seconded. The Committee voted 3-0-1 and the motion passed.

Member	Aye	N	Abstain	Absent	Recusal
Wang	X				
Morodomi				X	
Turetsky	X				
Kawaguchi	X				

4. Discussion and Possible Action on Legislative Proposal to Amend Business and Professions Code Section 3109; Possible Recommendation to Full Board

Audio: 07:46 / 1:07:00

Mr. Johnson opened on the item and noted that at a previous public meeting, Dr. Turetsky raised the issue of optometrists accepting employment from a physician and surgeon and the role of independent contractors within AB 5. He noted COA was attempting to get a “carve-out” within AB 5 for optometrists. Legal Counsel Rebecca Bon noted AB 5 may not affect optometrists. Separately, Business and Professions Code (BPC) Section 3109 allows an optometrist to accept employment from a physician and surgeon who practices in the specialty of ophthalmology. To improve patient access to care and allow for more optometry license flexibility, staff proposes to amend Section 3109 to remove the “specialty of ophthalmology” requirement. Committee agreed with the proposal.

There was no public comment.

David Turetsky moved to bring the item to the full Board at the next meeting. Glenn Kawaguchi seconded. The Committee voted 3-0-1 and the motion passed.

Member	Aye	N	Abstain	Absent	Recusal
Wang	X				
Morodomi				X	
Turetsky	X				
Kawaguchi	X				

5. Discussion and Possible Action on Legislation Affecting the Practice of Optometry and Opticianry; Possible Recommendations to Full Board

Audio: 21:34 / 1:07:00

A. Assembly Bill 29 (Cooper) State bodies: meetings

This bill would require that notice to include all writings or materials provided for the noticed meeting to a member of the state body by the staff of a state agency, board, or commission, or another member of the state body that is in connection with a matter subject to discussion or consideration at the meeting. Staff recommended an oppose unless amended position, with amendments allowed for the late posting of legislative or closed session materials. Dr. Kawaguchi felt the legislation would tie the Board’s hands too much and agreed with staff recommendation.

There was no public comment.

Glenn Kawaguchi moved to recommend to the full Board an oppose unless amended position with staff’s recommended amendments. David Turetsky seconded. The Committee voted 3-0-1 and the motion passed.

Member	Aye	N	Abstain	Absent	Recusal
Wang	X				
Morodomi				X	

Turetsky	X				
Kawaguchi	X				

B. Assembly Bill 407 (Salas and Low) Optometry: scope of practice

This bill additionally would authorize an optometrist who is certified to use therapeutic pharmaceutical agents to diagnose and treat acquired blepharoptosis. The bill would further authorize such an optometrist to use and prescribe, including for rational off-label purposes, therapeutic pharmaceutical agents for the treatment of acquired blepharoptosis in diagnosing and treating the above-described list of conditions and is sponsored by COA. Staff recommended a support position. Dr. Kawaguchi asked if COA was proposing the legislation because it was clear that optometrists currently could not do so under the scope of practice; Dr. Wang was also unclear. Dr. Turetsky noted the bill is likely a starting point for an expansion of scope of practice.

There was no public comment.

David Turetsky moved to recommend to the full Board a support position on AB 407. Glenn Kawaguchi seconded. The Committee voted 3-0-1 and the motion passed.

Member	Aye	N	Abstain	Absent	Recusal
Wang	X				
Morodomi				X	
Turetsky	X				
Kawaguchi	X				

C. Assembly Bill 691 (Chau) Optometry: SARS-CoV-2 vaccinations: SARS-CoV-2 clinical laboratory tests or examinations

This bill would expand the authorization for a TPA-certified optometrist to perform procedures to include a clinical laboratory test or examination classified as waived under the federal Clinical Laboratory Improvement Amendments of 1988 (CLIA) necessary to detect the presence of SARS-CoV-2. The bill would establish the substance of an application form for the immunization certification and expand the certificate to cover the administration of immunization for SARS-CoV-2. The bill would establish an application fee for the immunization certification. Dr. Turetsky inquired about what kind of COVID test is allowed; staff will clarify with the author’s office. Dr. Kawaguchi noted the bill might be overly specific and only limited to COVID.

There was no public comment.

Glenn Kawaguchi moved to recommend to the full Board support if amended position. David Turetsky seconded. The Committee voted 3-0-1 and the motion passed.

Member	Aye	N	Abstain	Absent	Recusal
Wang	X				
Morodomi				X	
Turetsky	X				

Kawaguchi	X				
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D. Assembly Bill 1236 (Ting) Healing arts: licensee: data collection

Mr. Johnson noted this bill would specify that licensees and registrants shall not be required to provide the requested information. Effective July 1, 2022, this bill would require each board, or the DCA on its behalf, to provide the information annually in aggregate form to the Office of Statewide Health Planning and Development

As the information requested is optional for each Board, implementation details have not been determined, but Board impact is expected to be low with information being collected in BreZE and annual reporting facilitated by DCA. Board members had no comments.

There was no public comment.

David Turetsky moved to recommend to the full Board a watch position on AB 1236. Glenn Kawaguchi seconded. The Committee voted 3-0-1 and the motion passed.

Member	Aye	N	Abstain	Absent	Recusal
Wang	X				
Morodomi				X	
Turetsky	X				
Kawaguchi	X				

E. Assembly Bill 1534 (Committee on Business and Professions) Optometry: mobile optometric clinics: regulations.

This is the Board’s sunset bill for 2021. Specific text will be added as the bill moved through the process.

There was no public comment.

David Turetsky moved to recommend to the full Board a support position on AB 1534. Glenn Kawaguchi seconded. The Committee voted 3-0-1 and the motion passed.

Member	Aye	N	Abstain	Absent	Recusal
Wang	X				
Morodomi				X	
Turetsky	X				
Kawaguchi	X				

F. Senate Bill 509 (Wilk) Optometry: COVID-19 pandemic: temporary licenses

Mr. Johnson noted that the bill would establish provisions for temporary licensure. The bill would require the board to issue a temporary license to practice optometry to any person who applies for and is eligible for licensure under existing law, but who is unable to immediately take the required examinations for licensure under the act. The bill would establish an application fee. The bill would require the applicant to satisfy prescribed additional conditions for issuance of a temporary license, among other things. Mr. Johnson said that staff does not

recommend a position at this time, and the committee may wish to defer this to the full Board until amendments are in print. This bill is sponsored by the California Optometric Association. Staff has been working with Sen. Wilk's staff, the sponsors and the Senate Business and Professions Committee on this bill text.

Dr. Turetsky comments that any supervising optometrist should be glaucoma certified, and asked if the temporary license holder could be supervised by an ophthalmologist? He also noted schools may not "sponsor" an applicant. Dr. Kawaguchi felt this bill was later in coming.

No motion was made for this item. There was no public comment.

6. Future Agenda Items

Members had no items. There was no public comment.

7. Adjournment

Meeting adjourned at 11:05 a.m.