

333333 *The mission of the California State Board of Optometry is to protect the health and safety of California consumers through licensing, registration, education, and regulation of the practice of Optometry and Opticianry.*

MEMBERS OF THE BOARD

Lillian Wang, O.D., President
 Jeffrey Garcia., O.D., Vice President
 Eunie Linden, J.D., Secretary
 Stacy Hancock, Optician
 Glenn Kawaguchi, O.D.
 Mark Morodomi, J.D., Public Member
 Joseph Pruitt, O.D.
 Jonathon M. Ross, O.D.
 Sandra D. Sims, J.D., Public Member
 Donald Yoo, J.D., Public Member
 Vacant Governor Appointee, Public Member

Gregory Pruden, Interim Executive Officer



**QUARTERLY BOARD MEETING
 FINAL BOARD MEETING MINUTES**

Friday, December 9, 2022

| Members Present | Staff Present |
|--------------------------------------|--|
| Lillian Wang, O.D., President | Gregory Pruden, Interim Executive Officer |
| Eunie Linden, J.D., Secretary | Randy Love, Assistant Executive Officer |
| Mark Morodomi, J.D. | Joely Walker, Enforcement Manager |
| Stacy Hancock, Optician | Erica Bautista, Administrative Analyst <i>(Remote)</i> |
| Sandra Sims, J.D. <i>(Remote)</i> | Jonathan Gasca, Policy Analyst |
| Jonathon Ross, O.D. | Terri Villareal, Lead Enforcement Analyst |
| Donald Yoo, J.D. <i>(Remote)</i> | Brittany Ng, Legal Counsel |
| | |
| Members Absent | |
| Jeffrey Garcia, O.D., Vice President | |
| Joseph Pruitt, O.D. | Guests |
| Glenn Kawaguchi, O.D. | On File |

Link for the audio of discussions: <https://www.youtube.com/watch?v=QLwIKqWJQ1E>

OPEN SESSION

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

Audio of Discussion: [1:12](#)

President Lillian Wang, OD called the meeting to order. Secretary, Eunie Linden tool roll call and a quorum was established. Drs. Jeffrey Garcia, Glenn Kawaguchi, and Joseph Pruitt were absent

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).)

Audio of Discussion: [2:43](#)

Public comment was heard from Dr. James Deardorff, O.D. He stated that his organization has developed three completely free vision clinics in Ventura County and Santa Barbara County. They have six non-profit groups working together to provide service to 30 individuals every week. He explained that they have now a little over \$100,000 raised for building a mobile clinic for which they are hoping to get started on soon. He requested that the Board place the mobile eye clinic on the next agenda.

Public comment was received from James Morris, Executive Director and General Counsel for the American Board of Opticianry (ABO) and the National Contact Lens Examiners (NCLE) who provide the Boards licensing exam. Mr. Morris simply wanted to announce his presence and state that the ABO and NCLE are here to assist the Board in any way possible in representing opticians and ensuring the best care of patients in California.

Public comment was heard from Martha (Ruby) Garcia, Executive Director at the California State Society of Opticians (CSSO) who announced that the CSSO has up to eight optician programs. Six of them are new and have launched this year. The CSSO has a state-wide apprenticeship program providing a solid opticianry base education; additionally, it assists graduates in finding employment. Ms. Garcia looks forward to seeing the Board in the near future to provide more updates.

3. Department of Consumer Affairs Update

A. Executive Office

B. Budget Office

Audio of Discussion: [9:10](#)

Yvonne Dorantes-Giles, Assistant Deputy Director of the Department of Consumer Affairs (DCA) Board and Bureau Relations (BBR) provided an Executive Office update. Mrs. Dorantes announced the Governor's recent appointments to the DCA's BBR team. Additionally, she announced the appointment of Kathleen Nicholls, Chief of the DCA Division of Investigation.

Mrs. Dorantes announced that DCA Director, Kimberly Kirchmeyer established the Department's first Diversity, Equity, and Inclusion Steering Committee (DEI) to guide the Department in its equity strategy initiative and action plans. The DEI will focus on three core areas which are 1) workforce: to recruit and retain diverse talent, 2) workplace: to actively educate leadership and staff to increase awareness and create an inclusive culture, and 3) Marketplace: to serve consumers, applicants, and licensees with sensitivity to their diverse backgrounds and perspectives.

Regarding the update on strategic planning, Mrs. Dorantes explained that in accordance with Governor Newsom's executive order, strategic plans taking effect in July 2023 and beyond, must be developed or updated to more effectively advance equity and drive outcomes that increase opportunity for all. Therefore, in response, DCA is revisiting its strategic planning process to incorporate more inclusive public engagement, data analysis and embedding diversity equity and inclusion into the strategic planning process. By March

of 2023, DCA will begin implementing the revised processes and working with the boards in updating existing strategic plans and developing new strategic plans

On November 2, 2022 DCA released its 2022 to 2027 strategic plan. Additionally, the Department released a new logo. The new plan and logo represent the next chapter and future of the Department.

DCA has decided to take part in the annual Our Promise: California State Employees Giving at Work charitable campaign and celebrate 65-years of caring for California. Board members should have received an email from DCA Our Promise Co-Chairs with information about how to give.

As Board member travel resumes it is important to remember that all state travel arrangements must be made through DCA's approved travel agency Cal Travel Store or Contour. All Board members and staff must use the most economical fares possible when traveling by air on official state business. Flight changes to the day and time for personal convenience are not approved or justified for any reason, and the traveler will be responsible for any associated charges.

Mrs. Dorantes reminded Members of their required Board member training. As 2022 ends it is a perfect time to make certain that all required training has been completed and that certificates of completion have been provided to the Executive Officer or to memberrelations@dca.ca.gov. Board members are required to complete the Board Member Orientation Training (BMOT) within the first year of appointment or reappointment; Ethics training must be completed within six months of appointment and repeat every two years. Sexual Harassment Prevention training must be completed within the first year and every two years thereafter. Defensive Driver Training must be completed within the first year and every four years thereafter. The trainings are offered multiple times a year in various formats for convenience.

DCA is partnering with the State Controller Office (SCO) to share information with consumers and certain licensees about the unclaimed property program. State law requires banks, insurance companies, corporations, and other entities to report and submit their customers property to the SCO after a period of inactivity (generally 3-years).

Budget Analyst, Veronica Hernandez provided an update on the Board's expenditure projections and fund condition statement. The Board has a budget of approximately 3.9 million which includes the \$93,000 in reimbursement authority. Year-to-Date (YTD) the Board has expended approximately \$848,000 and is projected to spend approximately 3.2 million, leaving a reserve of approximately \$679,000 or about 17.58%. The fund condition statement shows that the Board's prior year actuals for 2021-2022 adjusted beginning balance was close to 2.1 million. Approximately 2.5 million was collected in revenue and About 2.4 million was expended which includes \$176,000 in direct draws to support statewide expenses such as supplemental pension payments and statewide pro-rata. The Board ended the 2020-2021 with a little over 2 million reserve balance or 7.2 months in reserve. This balance becomes the beginning balance for the next fiscal year 2022-2023. The Board is projected to receive an estimate of 2.5 million in revenue. The Board's expenditures for this FY are projected to be approximately 3.1 million with an additional \$195,000 in direct draws for a total projected expenditure of almost 3.4 million. The Board is projected to end the current year with 2.3 million or 6.8 months in reserve. The Board's fund shows a decline with an estimate fund balance of 3.2 in reserve by the end of 2023-2024.

However, with any reversions to the fund these months in reserve will increase and the budget office will continue to monitor the Board's revenues and expenditures and report back to the Board with monthly expenditure projections. Ms. Hernandez noted that one of the main factors driving expenditure increases is personal service adjustments. These include general salary increases as well as employee compensation and retirement rate adjustments. The Budget Office includes an ongoing 3% increase to expenditures on the fund condition statement to account for ongoing incremental adjustments. The fund condition does not include increases to enforcement expenditures. She reminded Members that any future legislation or unanticipated events could result in the Board's need for additional resources which would increase pressure on the fund.

Mark Morodomi asked what a reversion means? Ms. Hernandez explained that the reversion is the remaining amount after expenditures are deducted from the budget.

Mr. Morodomi presented the argument that Members relied upon the competence of staff and the expertise of Budget Office analysts and therefore Members were unaware of the impending financial catastrophe. He noted that during the March and May Board meetings nothing whatsoever was mentioned regarding this. In fact, Members have consistently asked the budget analysts if there was anything looming on the horizon that the Board should be aware of or concerned about? The answer was always "no, you are looking good". The threat of insolvency was never mentioned. Then suddenly, at the August meeting the report and tone were very much different. This communication delay caused the Board to lose an entire year where it could have been acting proactively to rectify this financial crisis. Mr. Morodomi does not want anyone to believe that this Board has not been diligent in monitoring its fiscal situation. In his seven years serving on the Board, he has observed very active concern from Members. He noted again that Members relied upon, in good faith, the professional expert competence of the Budget Office and Board staff. Mr. Morodomi encouraged and requested that Budgets alert the Board immediately if they see any problem.

Karen Munoz, Budget Office Manager addressed Mr. Morodomi's concern. She explained that she has been working with the Board directly for the last 3-4 years. She stated that there have been some internal communications within the staff regarding some possibilities; however, there has been a lot of reversion back to the Board each fiscal year. Ms. Munoz reassured the Board that she does not believe this Board is too late to enact any kind of correction to the fund or the changing of a fee structure. The Board does have room in regulations to increase fees at this time. She stated that the Board does not have to search for a fee Bill immediately and there are options available. She assured that the Budget Office is monitoring the Board's budget every month. She noted that there are some emergency situations that Budget's cannot predict. She assured that the Budget Office is prioritizing this Board monthly to ensure monitoring of any irregular or unanticipated costs. She added that with Greg on board they will make sure they find savings within the Board's appropriation this fiscal year and next fiscal year as well as look at what can be done for the Board's fund in the future. Mr. Morodomi appreciated Ms. Munoz's refreshing and encouraging words and the Budget Office's support on budgetary matters. He noted that he was a bit shocked by the approach during the August meeting. He understands that sometimes bureaucrats like to scare board members straight to get them going; however, he did take some offense to it because this Board has been very diligent in its fiscal matters as well as working very cooperatively with the Budget Office. Ms. Munoz clarified that she is not saying that in the future they do not see a decline in the fund; Budgets does see the decline; but she reiterated that it is not too late to act.

Ms. Linden echoed what Mr. Morodomi stated. She explained that during the last meeting Members were all shocked at the level of urgency in terms of how quickly the Board needed to address this urgent crisis. Ms. Liden asked if Ms. Munoz could expand a on what kind of timeline she sees? Should the Board be looking at increasing fees to statutory caps now or is it something that can be pushed off a short while? Ms. Munoz clarified that a regulation can take up to 18 months to two years to get in place. If regulations to increase the fees to statutory caps is started currently, it is possible that the regulation could be in effect as early as January 2024 or as late as July 2024. Ms. Linden asked Ms. Munoz if it is her opinion that the Board should begin the process now? Ms. Munoz explained that having not yet had a sit down with the Board she does not have a study to answer this now. However, she stated that Budgets can schedule a meeting with executive staff sooner rather than later to discuss options. There are several things that have to be analyzed to see how far raising the caps will put the Board out to solvency and if there is a need for a legislative fee increase or any other changes to the structure within the Board's fund. She added that if the Board's expenditures are expected to remain the same, then the fees would need to be increased by 2024-2025.

Donald Yoo asked what the Board's fees are currently and the maximum amount that they can be raised. Interim Executive Officer, Gregory Pruden explained that although he does not have those exact numbers in front of him, he can share that the main revenue driver for the Board is the optometry renewal fee, and this is one of the fees that currently has room to be raised via the regulatory process. He believes the cap is \$500 and the Board is currently at \$425. Raising the optometry renewal fee \$75 to bring it to cap would be one of the current options in terms of what has room in terms of fees that are not at cap yet. Mr. Yoo asked if there are other sources of revenue besides renewal fees that the Board may be able to rely upon? Mr. Pruden believes that there are other small line items that can be increased; however, the bulk of the Board's revenue comes from licensure and renewal fees. Ms. Munoz confirmed this. Mr. Yoo requested a breakdown of all the Board's potential sources of revenue to determine which ones require a regulatory review versus the sources that can be increased without a lengthy regulatory process. Ms. Munoz has a breakdown that she will send to Mr. Pruden. Mr. Pruden assured that this information will be received and ready to discuss at the next Board meeting. He added that staff looks forward to working with the Budget Office and Members to get a better sense of exactly where the Board is spending money and where money is coming. Staff looks forward to having more conversations with the budget team and bringing this item back at a future meeting for a more robust discussion.

There were no requests for public comment.

4. Board President's Report

A. 2023 Board and Committee Meeting Schedule

Audio of Discussion: [48:56](#)

Dr. Wang officially welcomed the Board's Interim Executive Officer, Gregory Pruden. He is a wonderful addition to the Board. Mr. Pruden expressed his honor to be a part of this Board.

Board Members discussed potential meeting dates for the 2023 Board and Committee meeting schedule. Mr. Pruden announced that through July 1, 2023 legislation is in place to enable the continuation of hybrid meetings.

Dr. Wang provided an update on the Board’s search for an Executive Officer. Applications closed on December 5, 2022, and there are four candidates. The EO Search Committee will review each resume and meet with the candidates; then decide whom they wish to extend an invitation for an interview with the full Board. She anticipates the Board will meet the candidates at the next quarterly meeting tentatively scheduled for March.

There were no requests for public comment.

5. Discussion and Possible Approval of August 26, 2022 Board Meeting Minutes

Audio of Discussion: [53:42](#)

There was some discussion as to whether Members and staff who participated remotely need to be designated as such on the minutes. Legal Counsel advised that although she does not believe that minutes are required to reflect remote attendance it can certainly be added.

There were no requests for public comment.

Jonathan Ross moved to approve the August 26, 2022 Board meeting minutes with the amendments discussed. Sandra Sims seconded. The Board voted (6-Aye; 1-Abstain) and the motion passed.

| Member | Aye | No | Abstain | Absent | Recusal |
|---------------|-----|----|---------|--------|---------|
| Dr. Wang | X | | | | |
| Dr. Garcia | | | | X | |
| Ms. Linden | X | | | | |
| Ms. Hancock | X | | | | |
| Dr. Kawaguchi | | | | X | |
| Mr. Morodomi | | | X | | |
| Dr. Pruitt | | | | X | |
| Dr. Ross | X | | | | |
| Ms. Sims | X | | | | |
| Mr. Yoo | X | | | | |

6. Executive Officer’s Report

A. Enforcement Program

- i. Statistical Review, Quarter 1, Fiscal Year 2022-2023
- ii. Enforcement Process Presentation

B. Examination and Licensing Programs

- i. Statistical Review Quarter 1, Fiscal Year 2022-2023

C. Legislative Update

- i. Assembly Bill 2574 (Salas) Optometry ophthalmic and optometric assistants
- ii. Assembly Bill 2236 (Low) Optometry certification to perform advanced procedures

Audio of Discussion: [1:00:14](#)

Interim Executive Officer, Mr. Pruden provided the Executive Officer’s Report.

Lead Enforcement Analyst, Terri Villareal reported on Item **6.A.i. the Board's Enforcement Program**. She reported that enforcement continues to work on older complaints and continues to strive to improve its numbers. Additional enforcement staff will be hired in the coming months. Ms. Villareal announced that staff is expanding the newsletter to include a licensing enforcement report containing citations and pending enforcement action. This information is on the Board's website and it will also be included in the upcoming Winter newsletter.

Ms. Villareal presented enforcement statistics. Mr. Pruden interjected that he believes there are some areas of the statistics that may need to be refined a bit. He noted that the quarter 1 number appears to be compared to the year-to-date total from the prior year. He suggested that the Board may want to look at making this a comparison of quarter 1 with quarter 1 of the prior year so that it does not appear that the Board has a 73% drop in the number of complaints received.

Mr. Morodomi noted that he is aware that the metrics include how long cases have been pending, but he impressed upon the Executive Officer and staff that in cases that involve recent public harm and need the expenditure of staff resources to the detriment of meeting the Board's time metrics, his belief that these are a higher priority than old cases. Ms. Villareal assured that staff always makes those type of cases the first priority.

There were no requests for public comment.

Enforcement Manager, Joely Walker provided a presentation Item **6.A.ii., the Enforcement Process**. Under Business and Professions Code (BPC) sections 3010.1, protection of the public is the Board's highest priority in exercising its licensing, regulatory, and disciplinary functions. Enforcement staff is responsible for responding to complaints, conducting investigations, and monitoring the disciplines imposed. Complaints are primarily received from consumers, patients, family members, friends of the patient, licensees, government agencies, law enforcement, and anonymously. Complaints are triaged as soon as they are received. They range from sexual misconduct, unprofessional conduct, fraud, and DUIs. Staff also receives complaints for which the Board does not have jurisdiction such as those that include the behavior of personnel staff in the optometrist office, insurance problems, and HMO problems. Complaints that are triaged as high priority include urgent complaints like sexual misconduct, drugs and alcohol, and all physical and mental impairment. When performing a review of allegations, enforcement staff engage in a review of the licensee to determine if there has been any prior history of complaints or similar allegations. Once it has been determined that enforcement will proceed with a complaint, staff requests authorization to obtain medical records and the licensee is informed that the complaint review has been completed, a case has been opened, and the Board requests a response regarding the care and treatment that he/she provided to the patient. Additionally, once all information is received, staff determines whether the case needs review by technical experts. This is typically needed in cases that involve a medical diagnosis or misdiagnosis. The case would then be sent to the expert for review. Upon receiving the report from the medical expert, staff can close the case if the allegations are determined to be unfounded. A citation may be issued for technical violations or the case may be referred to investigations if negligence and/or incompetence may be an issue. Possible investigation outcomes are closing the case, issuing a citation and fine, referring the case to a local district attorney for criminal action, issuance of a public letter of reprimand, referring for disciplinary actions and interim actions. Ms. Walker explained the disciplinary process as follows:

- Accusation or Statement of Issues filed,

- First public document pursuing formal action,
- Notice of Defense filed by the Respondent.

If staff finds that the allegations warrant an emergency action and Interim Suspension Order (ISO) may be issued. There are three types of possible decisions as follows:

- 1) Stipulated settlement (enforcement settles the case before it does to a full hearing)
- 2) Proposed decision (issued by an Administrative Law Judge)
- 3) Default decision (if Respondent is not able to respond)

All disciplinary decisions are either brought to the Board during a Board meeting (in closed session) for a vote or via an email ballot. Possible disciplinary actions are:

- Revocation or surrender of license,
- Probation and the terms and conditions (e.g., continuing education courses, biological fluid testing, practice restrictions etc.)

The appeal process includes an Order to Vacate where they can petition the Board for reconsideration, taking their case to the Superior Court with the Writ of Mandate, or to the Court of Appeals and eventually to the California Supreme Court. Ms. Walker reported that staff reports to the National Practitioners' Databank, News Bulletin, and to the Board's website once the final discipline has occurred.

Mr. Morodomi expressed great appreciation to Ms. Walker for her presentation.

Ms. Linden concurred. She (regarding cases where the Board does not have jurisdiction over the complaint, if they ever direct that consumer to another body or organization who can take those complaints? Ms. Walker assured that staff does refer and some complaints are referred to other boards. The complaint is sent to the other board with a copy to the complainant informing them where their complaint has landed.

There were no requests for public comment.

Assistant Executive Officer, Randy Love reported on Item **6.B.i. the Examination and Licensing Programs Statistical Review, Quarter 1**. The licensing unit has spent the last several months licensing the 2022 graduation season applicants. Currently, everyone who graduation in 2022 and completed an application has been licensed. Therefore, the licensing units focus has shifted to the backlog of Fictitious Name Permit (FNP) applications. There are about 100 that are currently waiting for review. Staff will work through those applications this month and they should be completed by the end of the year. Mx. Love reported that staff is working to fill vacancies over the next couple of months. She explained that BreEZe is working on fixing a glitch so that BreEZe can send letters to the licensees' and registrants' mailing address in lieu of their address of record (AOR) and have it not become public information. Mx. Love provided the statistics for the first quarter of the current fiscal year. 183 optometrists were licensed in the first quarter. This will represent the majority of the Board's 2020 graduates.

There were no requests for public comment.

Mr. Pruden provided the legislative update for **Agenda Item 6.C.i Assembly Bill 2574 (Salas) Optometry ophthalmic and optometric assistants**. The first day of the 2023-2024 regular session of the California Legislature began on December 5th. The first day of session

is typically organization and focused on the swearing in of new members. There were at least a few races yet to be decided upon at that time, and normal legislative action is not anticipated to pick back up until the members return in the new year. Mr. Pruden reported that Assembly Bill (AB) 2574 restores statutory authorities that were erroneously removed by AB 407 from 2021. It authorizes an optometrist to independently administer immunizations if they are immunization certified, and to diagnose and stabilize patients with acute angle closure glaucoma. The intent of this bill is to clean up and clarify statutory authorities that were accidentally removed. AB 2574 was signed by the Governor and will take effect on January 1, 2023.

Mr. Pruden provided the legislative update for **Agenda Item 6.C.ii. Assembly Bill 2236 (Low) Optometry certification to perform advanced procedures**. This bill would have created a new certificate type that allows optometrists to perform three advanced laser surgical procedures, excision or drainage of non-recurrent lesions of the adnexa, injections for the treatment of Chalazia, and to administer anesthesia and corneal cross-linking procedures after meeting specified training, passing an exam, and completing education requirements promulgated by the Board. AB 2236 would have also required that optometrists report any adverse treatment outcomes to the Board and would have required that the Board review these reports in a timely manner. AB 2236 was passed by the Legislature, sent to the Governor's Office, and was ultimately vetoed by the Governor.

Mr. Pruden reported that there are currently no new bills impacting the Board.

There were no requests for public comment.

7. Future Agenda Items

Audio of Discussion: [1:31:35](#)

Ms. Sims requested that a discussion regarding mobile clinics be added to the March agenda.

Ms. Linden requested a regulatory update regarding packages that are pending and fee study. Additionally, she would like to hear more about vision care for children under Medi-Cal and what the Board may be able to do to support these issues and increase vision services for children under Medi-Cal.

Mr. Morodomi requested that whatever needs to be placed on the agenda for the Board to get its regulatory fees and stopgap measures done sooner rather than later for the Board's budgetary problems to be added. Additionally, Mr. Morodomi announced to the regulated public that if any folks are having difficulty getting staff to respond to their inquiries (email or telephone) to let the Board know in the public comment period of the Board's quarterly meetings. Mr. Pruden added that customer service is part of what the Board does. He is happy to provide his direct email and encourages anybody to send inquiries to his direct email address (gregory.pruden@dca.ca.gov). He assured their concerns will be handled in a timely fashion and he looks forward to hearing from folks.

Mr. Donald Yoo asked if staff keeps records of customer service complaints. Mr. Pruden explained that he is not sure if these are tracked on a case-by-case basis; however, there is always more that can be done to improve the Board's customer service. This is something staff can explore.

Dr. Ross commented that during the PEC meetings the Committee has been discussing the potential link between the OE Tracker and the BreZE system. He is hoping to obtain more information and he suggested that this may potentially be a discussion item for the next full Board meeting.

There were no requests for public comment.

8. Petition for Early Termination of Probation

A. Trina Jean Granstra (SLD #2176, CLD# 6321)

Audio of Discussion: [1:39:56](#)

Administrative Law Judge, Sean Gavin presided over the Hearing.

CLOSED SESSION

9. Closed Session

A. The Board Will Meet in Closed Session for Discussion and Deliberation on Disciplinary Matters, Pursuant to Government Code §11126(c)(3)

B. The Board Will Adjourn the Meeting

The meeting moved into closed session for a decision on Agenda Item 8.

The meeting adjourned at 4:00 p.m.